British Columbia capital regional district 100% smokefree bylaw: a successful public health campaign despite industry opposition

J Drope, S Glantz

Objective: To describe how the British Columbia Capital Regional District successfully passed, implemented, and enforced a 100% smokefree bylaw in all public places, including restaurants and bars, despite an aggressive campaign by the tobacco industry (acting through the hospitality industry) to stop it.

Methods: Information was obtained from news reports, internal tobacco industry documents, reports, public documents, and interviews with key players. Tobacco industry documents were accessed between February and April 2002. This project was approved by the University of California San Francisco committee on human research.

Results: As in the USA and elsewhere in the world, the tobacco industry in British Columbia, Canada, recruited and created hospitality associations to fight against the district smokefree bylaw. They used the classic industry rhetoric of individual rights and freedoms, economic devastation, and ventilation as a solution. Public health authorities were able to counter industry strategies with a strong education campaign, well written bylaws, and persistent enforcement.

Conclusion: It is possible to overcome serious opposition orchestrated by the tobacco industry and develop and implement a 100% smokefree bylaw in Canada. Doing so requires attention to detail in drafting the bylaw, as well as a public education campaign on the health dangers of secondhand smoke and active enforcement to overcome organised resistance to the bylaw. Jurisdictions considering smokefree bylaws should anticipate this opposition when developing and implementing their bylaws.

Table 1

<table>
<thead>
<tr>
<th>Year</th>
<th>Workplaces</th>
<th>Retail stores and public premises</th>
<th>Restaurants and licensed premises</th>
<th>Bingo halls</th>
<th>Extended and long term care facilities</th>
<th>Bowling alleys</th>
</tr>
</thead>
<tbody>
<tr>
<td>1984</td>
<td>100%</td>
<td>Non-smoking areas</td>
<td>25%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1986</td>
<td>100%*</td>
<td>Designated non-smoking areas</td>
<td>50%</td>
<td>25%</td>
<td>100%*</td>
<td>50%</td>
</tr>
<tr>
<td>1991</td>
<td></td>
<td>Designated non-smoking areas</td>
<td>30%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1992</td>
<td>100%*</td>
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<td></td>
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<td></td>
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<td>100%</td>
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<tr>
<td>1999</td>
<td>100%</td>
<td>100%</td>
<td>60%</td>
<td>40%</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

*Separately ventilated designated smoking area permitted. Percentages were obtained from bylaws enacted each year.
RESULTS
Development and passage of the bylaw
As early as 1993, the district medical health officer, Shawn Peck, proposed a smokefree region. The proposal was quickly abandoned after vehement objection from the regional Food and Restaurant Association. For the next two years, Peck and his staff continued to promote 100% smokefree places in the media and in public by publishing a brochure of almost 100 restaurants (out of approximately 1000 in the region) that had gone smokefree voluntarily.11

In 1995, armed with mounting evidence that SHS was dangerous, Peck recommended to the district board and its health committee that the regional Clean Air Bylaw be amended to make all indoor spaces 100% smokefree, commencing January 1998.12 Shortly after, Richard Stanwick took over the position and proposed the bylaw be enacted by 1996 but opposition quickly convinced the board’s health committee of the need for more consultation.

Meanwhile, a similar debate ensued in Vancouver, British Columbia’s largest city. Since it was believed that Vancouver would become the first city to adopt a smokefree bylaw including restaurants and bars, tobacco industry opposition became strong and focused there. When the district began holding meetings, opponents of the bylaws in Vancouver and the district worked together. One of the key opponents in both places was Bruce Clark, a Vancouver pub owner who represented the newly formed, tobacco industry funded Lower Mainland Hospitality Group.13 Following standard tobacco industry rhetoric,14 Clark claimed economic devastation would follow a smokefree bylaw, with the hospitality business falling by 15–50%.15 Clark’s coalition hired CCG Consulting Group of Vancouver, which estimated that requiring smokefree restaurants would cost 2700 jobs there.16 The tobacco industry did not make any direct appearances in the public debates.

After the district health committee requested further consultation, Stanwick and his staff met with representatives from Victoria’s licensed liquor serving establishments. The only solution many of the hospitality representatives were willing to accept was the tobacco industry’s “accommodation solution”17 in which smoking would continue to be permitted with special ventilation or separate smoking rooms.18

To explore whether the proposed ventilation solution would protect health, Stanwick’s office hired a Victoria consulting engineer to estimate the level of ventilation necessary to provide health protection from the toxins in SHS. The engineer estimated that the number of air changes per hour needed to protect the health of people where smoking was permitted would be the equivalent of sitting in a 20 km/h wind tunnel, and that there was no viable health based ventilation solution.19 With this research and the mounting scientific evidence that there was no safe level of SHS exposure, Stanwick refused to agree to any ventilation solution.20

When it was clear an agreement would not be reached, the meetings broke down and the health committee requested public hearings. Ten hours of hearings were coordinated and broadcasted live on local radio. More than 90 people spoke, many of whom had opposed the bylaw in Vancouver.21

A poll commissioned by Stanwick’s office showed 61% of the population supported a 100% smokefree bylaw.22 With this support, Stanwick decided that January 1998 would be a reasonable implementation date, the same date planned for Vancouver. The regional chapter of the Food and Restaurant Association agreed restaurants could go smokefree but argued the date should be delayed until 2000. The head of the association, Don Monsour, wanted all establishments to go smokefree at the same time because he feared a loss of business if restaurants, but not bars, were required to go smokefree. British Columbia liquor laws require that restaurants serve alcohol only if the patron intends to eat, whereas bars can serve alcohol with or without food. Since all the pubs in the region served food, Monsour feared people would simply change venues in order to smoke which would devastate small restaurants. He was also concerned about smoking rooms and other ventilation solutions the pub owners were advocating because capital and operating costs were prohibitive for most restaurants, and ventilation standards could change over time.23

Despite opposition, the health committee unanimously recommended all public places go smokefree on 1 January 1998. At the full district board meeting, a compromise was proposed that delayed implementation a year. Monsour agreed to the compromise and ensured full cooperation from the restaurants as long as bars went smokefree at the same time.24 In response, the board enacted a bylaw that required all public places to go smokefree by 1 January 1999.

Meanwhile, in Vancouver, intense lobbying from the hospitality industry defeated the bar provisions of its proposed bylaw. Their new bylaw required all restaurants to go smokefree, but excluded bars and pubs.25 The district was suddenly the first municipal jurisdiction in Canada to go 100% smokefree in all public spaces.

Preparation for implementation
By 1998, local opponents began to organise to pressure regional politicians and health authorities to rescind the law. (The tobacco industry played no public role in the opposition.) Don Rittaler, a bar owner, began a court challenge of the bylaw on its constitutionality. His court documents and media statements repeated classic tobacco industry arguments of personal rights and freedoms, ventilation as a solution, and the dire economic consequences of a smokefree bylaw.26 The industry offered assistance to Rittaler in presenting his case in the media,27 but he never brought the case to court.28 At the end of 1998 the district faced a new challenge when the provincial Workers’ Compensation Board announced it was going to introduce regulations that would protect workers from SHS in all workplaces in British Columbia. Opponents of the district bylaw suggested that the district board wait to see what would happen but the board announced that the regulations would not come into effect until 1 January 2000, one year after the district’s bylaw. Workers’ Compensation Board representatives explained that their regulations were intended to complement and not replace local bylaws. The board regulation was weaker than the district bylaw because it allowed smoking rooms.29

Meanwhile, a group whose publicly disclosed membership consisted primarily of owners of bars and pubs created the Victoria Age of Majority Business Coalition to prevent the bylaw from coming into effect. They pursued an aggressive public relations campaign communicating their message through radio, print advertising, bumper stickers, and public information sessions. They emphasised the tobacco industry’s messages of freedom of choice, ventilation solutions, and job loss in the hospitality sector. They also argued that the pending Workers’ Compensation Board regulation made the district bylaw unnecessary and too restrictive.30

Also that year, representatives from the newly organised Capital Health Region (CHR) and Monsour travelled to California to observe the state’s smokefree bar law, which had been in place since January of that year. Monsour, who had been reluctant to go, was surprised by how well the California law was working. This recognition fostered a relationship of openness and trust between Monsour and the CHR.31 The group also invited two bar owners from California to Victoria to refute claims that a smokefree bylaw would adversely affect the hospitality and tourism industries.32

Implementation and enforcement
The CHR created a comprehensive communications strategy to ensure that everyone, especially those directly affected, understood the bylaw. Health officials sent an information kit to all
hospitals that contained a copy of the bylaw, suggestions to employees on how to deal with customers, information on the health effects of SHS and smoking cessation programmes, sample coasters, and signs prohibiting smoking.36

The CHR set up telephone lines for the general public to call with complaints and publicised on signs in bars and in ads that were run every two days in the Victoria Times-Colonist and the News Group for a year.37 The bylaw put the onus on the individual smoker and the enforcement plan was to issue citations to those found smoking. For the first few weeks environmental health officers were redeployed from other duties to help a tobacco enforcement team respond to complaints and conduct routine inspections.38

A minority of bar owners refused to cooperate and openly defied the law. Brian Mayzes, the main spokesperson of the Age of Majority Coalition, managed one of the most defiant pubs. He posted signs throughout his bar to tell patrons it was a smoking establishment and made many media appearances to state smoking was the choice of his customers.39 The level of hostility was so high that the police had to be called in as back up enforcement. Tickets did not deter him. Mayzes told reporters that he would not ensure the safety of health and bylaw officers if they tried to enforce the law. His customers greeted officers with Nazi slogans and salutes.39 Similar occurrences happened in a few other bars.40

In the 1999 mayoral election Mayzes made the bylaw a political issue by running against the incumbent Frank Leonard, who championed the bylaw in the district. Leonard won by a landslide.41

The CHR staff had not anticipated the hostility they would face, so replaced the original system of health inspectors visiting alone with one in which they were accompanied by regional bylaw officers, with the proper training for such situations42 until 2001, when the problems receded.

During the lead up to implementation and the first few weeks after, Stanwick was available to all media 24 hours a day, seven days a week to answer questions and counter false information being spread by opponents from the hospitality industry.43-45 The media reported on the 50 defiant bars rather than the 1250 complying establishments, giving the impression of widespread non-compliance. Reporters focused on the health effects of SHS and smoking cessation consultants working on the hospitality issue either directly or through programs such as Courtesy of Choice.46

The tobacco industry's role
Because of its lack of credibility the tobacco industry has a well established practice of staying in the shadows and working through front groups.47-50 The tobacco industry encourages “accommodation,” and ventilation solutions by recruiting local hospitality organisations, or, when necessary, creating new ones.51 The tobacco industry's undisclosed role in recruiting the hospitality industry with the goal of rescinding the bylaw in Victoria is laid out in a 1998 memorandum of the Canadian Tobacco Manufacturers’ Council (CTMC).52 The memo revealed that four “new” properties in the Victoria area had joined the Courtesy of Choice “accommodation” programme to counter smoking bylaws.53 The new establishments included the Red Lion Inn, Victoria Plaza, Westwind Plaza, and Don Rittler's Sooke River Hotel. The memo also explained that after having discussed Rittler's court challenge with him, “we are offering to provide media training and support for his upcoming interviews”.54 The memo further outlined strategies they were using to help the local hotels boost public awareness for a “choice and ventilation” solution and how they “stressed the importance of “strength in numbers” in order to counter the impending bylaw”.54

Two other 1998 memos also showed that through the Courtesy of Choice programme, the CTMC funded a strategy to promote ventilation as a solution to smokefree bylaws.51 One of the memos from a council public relations consultant, Susan Walsh, to Matt Winokur, director of worldwide regulatory affairs at Philip Morris USA, outlined a meeting for “ventilation consultants working on the hospitality issue either directly or through programs such as Courtesy of Choice”.53

Walsh also organised a meeting for those “helping to organize the fight against smokefree bars in the hospitality sector”. Some of the topics to be discussed included compliance and enforcement issues, economic impact, and a central
What this paper adds

Even though the tobacco industry mobilises opposition to smokefree bylaws in Canada, these limited compliance problems were widely publicised in the media. The CHR staff realised that they had naively thought that the bylaw was a health issue, and were not prepared for the deficit minority, but quickly recognised this fact and adapted their policies. In their consultation with Californians, they had been forewarned about some of the problems enforcement personnel faced but they chose to believe that because the district was a different region, with a different culture, these problems would not arise or would not be the same. They were wrong. The fact that the CHR staff realised this and moved decisively to enforce the law eventually eliminated these problems. It is important that any municipality proposing a smokefree bylaw plan active educational and enforcement campaigns to counter any orchestrated opposition that may develop. Since the great majority of establishments obey the law, a few strong enforcement actions bring everyone into compliance.

The health advocates chose to have one group, the District Tobacco Free Task Force, as one voice for all the proponents of the bylaw, with the large established health groups saying little other than promoting educational materials on the health effects of SHS. The large voluntary health groups, such as the Cancer Society, Heart and Stroke Foundation, and the Lung Association, have more public credibility and authority than an unknown coalition or task force. Some of the bylaw advocates in Victoria (and the organisations themselves) thought that keeping a low profile was a good strategy; however, the literature indicates that it is more effective when policy makers have different advocates who are recognised and have high credibility with the public, and continually reiterate the arguments for tobacco control and the science that supports it separately and in their own voices.

Conclusion

Similar to other smokefree local ordinances in the USA and around the world, a 100% smokefree law was not simply proposed and implemented. Like groups in the USA with documented ties to the tobacco industry, local hospitality groups opposed the bylaw. By the time the district passed its bylaw in 1996 there had been over a 10 year process of progressively stronger bylaws (table 1), which set the groundwork for a strong, well written smokefree bylaw. The success of the district in passing, implementing, and enforcing this bylaw was due to a small team of dedicated health professionals, lawyers, and politicians who created a strong educational campaign that countered tobacco industry strategies, and wrote strong bylaws and persevered when enforcement became difficult and contentious. The history of the Capital Regional District smoke free bylaws illustrates how
to succeed for other jurisdictions that are thinking of, or have started the movement toward, 100% smokefree public places.

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Authors’ affiliations

J Drope, S Glantz, Center for Tobacco Control Research and Education, Institute for Health Policy Studies and Cardiovascular Research Institute, University of California, San Francisco, San Francisco, California, USA

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