

Plan to Restrict Smoking in New York City Faces Considerable Opposition

By JONATHAN FRIENDLY

Mayor Koch's sweeping proposal to restrict smoking in private office buildings and public facilities in New York City is in trouble. The plan is opposed not only by businesses, which fear it would cost them money, but also in the City Council, which would have to enact it.

However, the plan is enjoying some public support. Since the Mayor announced his "bill of rights for nonsmokers" three weeks ago, the city's Health Department has received 150 letters from residents, raising 5 to 1 in favor of the restrictions, said the Health Commissioner, Dr. Stephen Joseph.

But the proposal was immediately attacked by the tobacco industry and the city's restaurant industry, which has begun an intense lobbying campaign with City Council members.

Within the Council, the way that Mr. Koch introduced the smoking plan has become a focus for complaints.

Opposition to Executive Order

The Mayor did not consult with Council members before announcing the plan — a usual courtesy for major Mayoral initiatives — said the Council majority leader, Peter F. Vallone. Mr. Koch also said he would impose the restrictions on city agencies by executive order.

An awful lot of things have been happening by executive order that should not be," Mr. Vallone said, adding that he would like to see a more restrictive law.



ing that he was prepared to use the anti-smoking proposal as an opportunity to challenge the Mayor's use of such orders.

The Mayor's proposal would ban smoking in many enclosed public places such as stores, taxicabs or waiting rooms, restrict it to designated areas of restaurants and arenas, and require private employers to provide smoke-free working areas for employees who wanted them.

Mr. Koch, in addition to saying he would impose the restrictions on city agencies by July 1, said his proposal would be reviewed by a five-person committee headed by Joseph A. Califano Jr., who was Secretary of Health, Education and Welfare in the Carter Administration. And that committee's plan to conduct its own hearings has further angered Council members.

Councilman Fernando Ferrer, the

Chairman of the Health Committee, called the Mayor's plan to organize public hearings on the proposal "a perversion" of the normal legislative procedures, under which the Health Committee would hold the hearings.

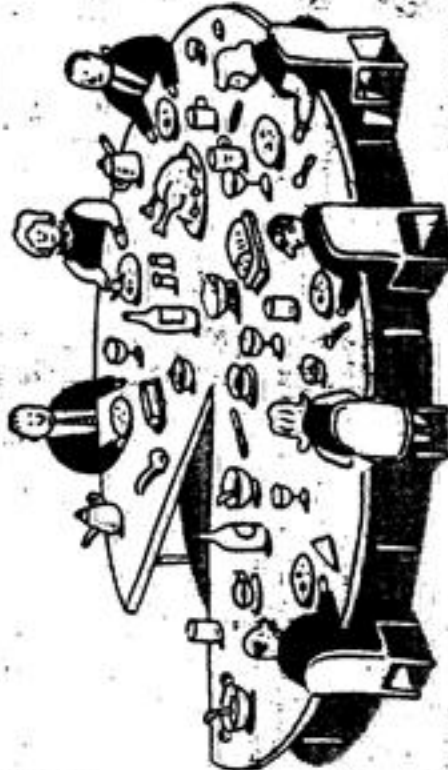
Reservations Called an Intrusion

Mr. Vallone, Mr. Ferrer and Councilman Stanley E. Michels, a Manhattan Democrat who has sponsored smoking restriction bills in the past, said the hearings were an intrusion on Council prerogatives.

"It's a breach of the Council's right to draft legislation," Mr. Ferrer said. A bill has been killed in committee in each of the last five years. Mr. Koch had opposed it, saying he feared it would harm the city's economic revival. In proposing his own plan, he said that possibility no longer existed because the city economy was doing so well.

The Mayor's proposal would ban smoking in restaurants unless they installed ventilation systems meeting city standards. A similar law is in effect in Nassau County on Long Island.

Mr. Vallone, a pipe smoker, said he preferred a voluntary approach to smoking restrictions, similar to the law in New Jersey that encourages restaurants and other businesses to designate nonsmoking areas on their own. "I have a great problem in mandating there be



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no smoking at all," he said. Although the bill provides fines of up to \$1,000 for establishments that repeatedly fail to meet the code, city health officials say they expect to rely on voluntary compliance, a strategy that has limited the effectiveness of similar laws in other states, including New Jersey and Connecticut.

Councilman Glad to See Plan

Mr. Michels said he was glad the Mayor was supporting restrictions on smoking. "Many people dismissed it as a Machiavellian tactic to divert atten-

tion from the corruption problem," he said, referring to the Federal and state investigations that have preoccupied city government since January. "But whether it is or not, it means the issue will be considered seriously."

Dr. Joseph, the Health Commissioner, said the city had not analyzed the potential economic impact of the proposal. He said the mayoral panel would begin hearings next month.

He and other administration officials said the hearings were needed to build public support for the measure and to

decide details of what they said was not a precisely defined plan. The bill, for example, says an employee should be allowed to designate his "work space" as smoke-free, but does not define work space.

Dr. Joseph said he was just starting to study whether he would need additional staff to enforce the measure. He also said the department did not know how to measure the adequacy of ventilation systems that the bill requires for restaurants, sports arenas and convention halls.

He added that the Health Department had not decided how it would carry out the Mayor's order that it provide smoke-free work areas in its own offices.

Officials said the Mayor's proposal could be affected by whether the Legislature passes a bill to curb smoking in public places statewide, a step that legislative aides said was now likely. The Senate Health Committee, which in years past has buried a House-passed measure to control smoking, plans to conduct hearings on the bill next month.

Assemblyman Alexander B. Granits, a Manhattan Democrat who is the chief sponsor of the legislation, said that to get a Senate hearing, he had dropped a provision giving employees the right to a smoke-free environment. Dr. Joseph said action in Albany would not pre-empt the city's authority to write a more restrictive law.

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