

***The Dallas Smoking Ordinance
One Year Later***

**A Report on the Impacts of the City of Dallas
Smoking Ban on Alcoholic Beverage Sales
March 2003 to March 2004**

October 1, 2004

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Prepared for:
The Greater Dallas Restaurant Association
Fall 2004

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Overview

In January 2003, the Dallas City Council passed a comprehensive smoking ban that covered restaurants, hotels, bingo halls and bowling centers in the city. On March 1, 2003 this ordinance took effect.

As the Dallas smoking ban passed its first anniversary this past March, questions continued about its impacts on restaurants, hotels, and drinking establishments where food sales qualify them as restaurants in the language codified in the non-smoking ordinance.

In January 2003, the Greater Dallas Restaurant Association asked us to review the impacts a smoking ban had on the City of Carrollton in the mid-1990's and the potential impacts such a ban would have on Dallas. We found a significant impact did occur in Carrollton (which later rescinded its ordinance) and urged Dallas policymakers to adopt smoking restrictions that focused on accommodation, not discrimination.

In March of this year, the Dallas Restaurant Association asked us to review the one year impact of the Dallas smoking ordinance on City of Dallas restaurants. However, there is three to four month delay in getting monthly sales information from the state comptrollers office, so a full year analysis of data was not possible until late this summer.

The following is a report on our efforts to measure the effect, if any, of the smoking ban on revenues at affected City of Dallas establishments.

For this report, we evaluated alcoholic beverage sales data available from the State of Texas Comptrollers Office, reviewed a survey conducted by the Greater Dallas Restaurant Association, and analyzed information obtained from press reports during the first quarter of this year.

Our preliminary findings indicate the Dallas smoking ban ordinance

- ***Contributed to a decline in alcohol sales in the City of Dallas***
- ***Negatively impacted revenue at many restaurants in Dallas***
- ***Caused at least four restaurant closings***
- ***Appears to be changing the business models used by hospitality business owners in Dallas.***

The findings also track the trend experienced in Carrollton, Texas where a government imposed smoking ban led to a decline in alcohol sales and a loss of restaurant development and tax dollars in the city.

Earlier this year a news report focused on whether Dallas was at a "Tipping Point" in its effort to remain in the top tier cities in the nation. Based on our review, the city is clearly at "Tipping Point" in regards to encouraging hospitality development in the city. Not only has the smoking ordinance impacted operations at many restaurants; it has changed the perception of the

city within the hospitality community. To many in the industry, Dallas has lost its way in encouraging hospitality development in the city. This has significant implications for a city that is surrounded by suburban cities that are perceived as more hospitality industry friendly.

Assessing the Impacts of Smoking Ordinances

There are several challenges in assessing the impact of smoking bans. Proponents of smoking bans often cite retail sales tax receipts in their impact assessments. However, this data can be misleading.

First, sales tax data typically reported for the restaurant industry provide no break-out for the variety of restaurant types. Fast food establishments, bar food sales, corner diners, and upscale steak houses are all included in the same set of data. Many of these establishments, especially fast food and family-style restaurants and buffets, which comprise a significant majority of restaurants in most cities including Dallas, were already non-smoking before the ban. Moreover, a sizable portion of food sales at these establishments is take-away or drive-through purchases. The presence or absence of a smoking ban probably makes no difference on sales at these types of eating places.

Thus, any claims about the absence or presence of an impact on restaurant sales based solely on broad measures of food sales tax receipts for the entire industry are simply based on invalid measures and should be viewed with suspicion by policy makers.

Full Service Restaurants Most Affected by Smoking Bans

From our preliminary review of the data, smoking bans appear most likely to affect full service dining establishments, particularly those that have a restaurant bar or serve cocktails, where a part of the ambiance is having a glass of wine or cocktail and conversation before and after the meal.

More importantly for restaurateurs, the additional time spent at the table by customers usually means additional revenue. Alcoholic beverage sales represent a sizable proportion of the profits for upscale dining establishments. It has been the experience of restaurateurs in cities where smoking bans are in place that if one or more members of a dining party are smokers, the time at the restaurant is reduced. The meal itself still takes the same amount of time to be consumed, but the time spent before and after the meal is decreased, resulting in lower alcoholic beverage sales for the restaurant.

The Carrollton Texas Experience

Our 2003 evaluation of the impact of the smoking ban imposed on Carrollton's restaurants in the mid-1990s, which had a sizable number of fast food and family style restaurants where no alcohol was served, found little impact on food sales at most restaurants (there were exceptions), but a significant impact on alcoholic beverage sales at restaurants. Moreover, according to city economic development staff, the ban negatively affected their ability to attract new restaurants into that city.

Carrollton offered an excellent opportunity to study the impact of a smoking ban empirically. The city imposed the ban in January 1995 and then decided to rescind the ban in December 1998. Our analysis found that alcoholic beverage sales decreased by an average of 11 percent during the smoking ban, imposing a substantial burden on that city's restaurants. Once the ban was removed, beverage sales rose again. While there are some challenges in assessing whether or not the Dallas smoking ban has had a similar impact on alcoholic beverage sales at restaurants, preliminary data indicate that it could.

The Dallas Experience: Alcohol Sales Down \$11.8 million

An analysis of data from the State Comptroller's office finds that alcoholic beverage sales receipts in Dallas substantially declined in 2003 versus 2002. The smoking ban was in effect during most of this period and the highly-publicized city council deliberations on the smoking ban occurred in January and February.

After several years of strong growth in alcoholic beverage sales, sales at Dallas' restaurants showed a small year over year decline between 2000 and 2001 totaling about \$370,000* (see Figure 1 below). Considering the dual effects of an economic downturn and the impacts of the 9/11 attacks on consumer spending at hospitality venues, this decrease offers little surprise. Moreover, as the impact of the tech-wreck extended the loss of regional business activity well into 2002, alcoholic beverage sales dropped an additional \$4.1 million compared to 2001. As the regional economy stabilized and began showing early signs of returning growth, expectations rose that consumers would regain their desire for fine dining accompanied by alcoholic beverage sales. However, for Dallas' restaurants the pain grew worse. Comparing 2003 to 2002, year over year sales of alcoholic beverage at eating and drinking establishments in Dallas fell \$11.8 million – almost three times the decrease in sales between 2001 and 2002.

Importantly, Dallas' experience contrasts with the success of most of its regional competitors in the hospitality sector. Based on mixed beverage sales tax rebates from the Texas Comptroller, with one exception, Dallas's biggest dining competitors saw year over year gains in alcoholic beverage sales between 2002 and 2003 ranging from a 3.2 percent increase in Richardson to a 12.2 percent increase in Frisco. Only Irving, whose sales were essentially flat (declining less than one percent) did not see year over year gains in alcoholic beverage sales between 2002 and 2003. Statewide, mixed beverage sales tax rebates to cities averaged 1.9 percent (see Figure 2).

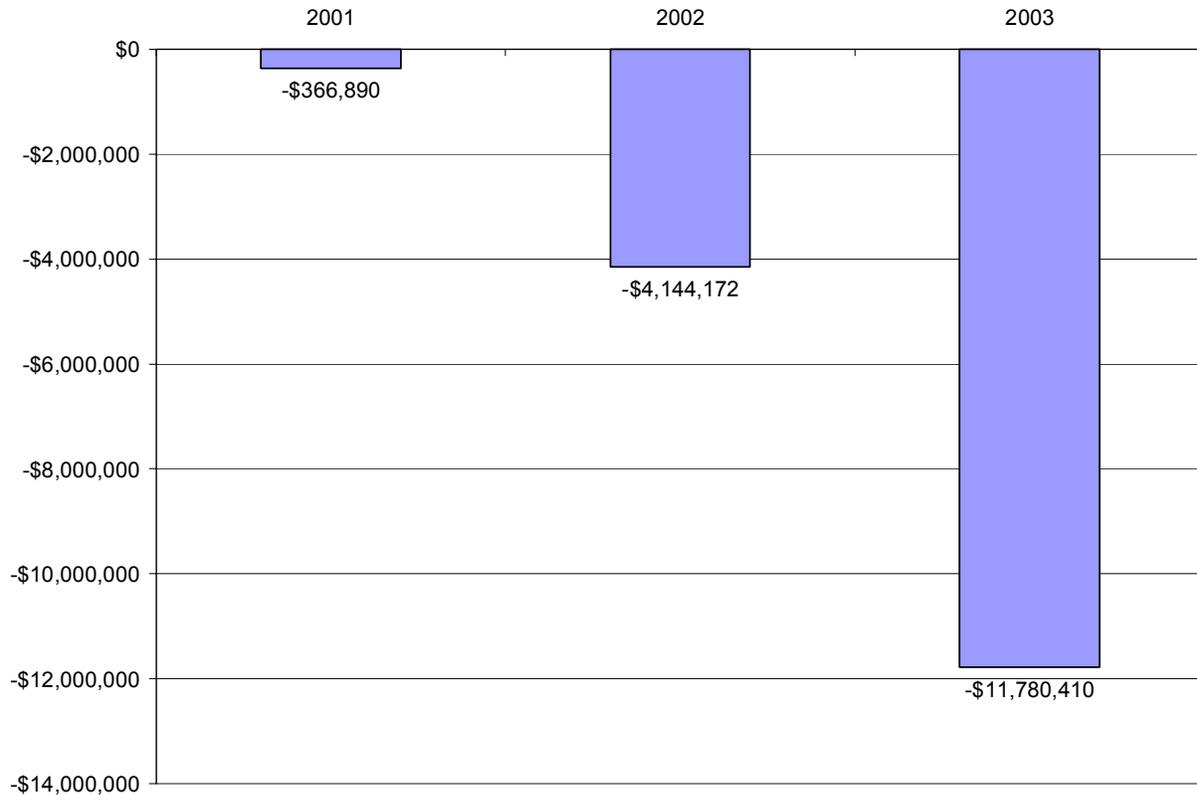
These losses in Dallas represent a significant decrease and should be of concern for Dallas policy makers as they demonstrate the city is becoming less of a destination of choice for hospitality venues. They also clearly demonstrate the new ordinance is not drawing people into Dallas bars and restaurants as proponents of the ordinance forecasted.

The Dallas ban on smoking was imposed at a time when the Dallas economy was at the nascent stage of a "jobless" economic recovery and accompanied by declining per capita income. With a depressed local economy, it is more difficult to tease out the specific impacts of the

* Year over year sales are based on the previous 12-month total sales for January 2001, 2002, 2003, and 2004, respectively.

smoking ban. Methodologically, the best way to approach this type of analysis is to look for indications of an impact over a period of time. Moreover, any affects the smoking ban may have on restaurant locations will potentially take years to be fully realized due to building leases and similar contractual obligations.

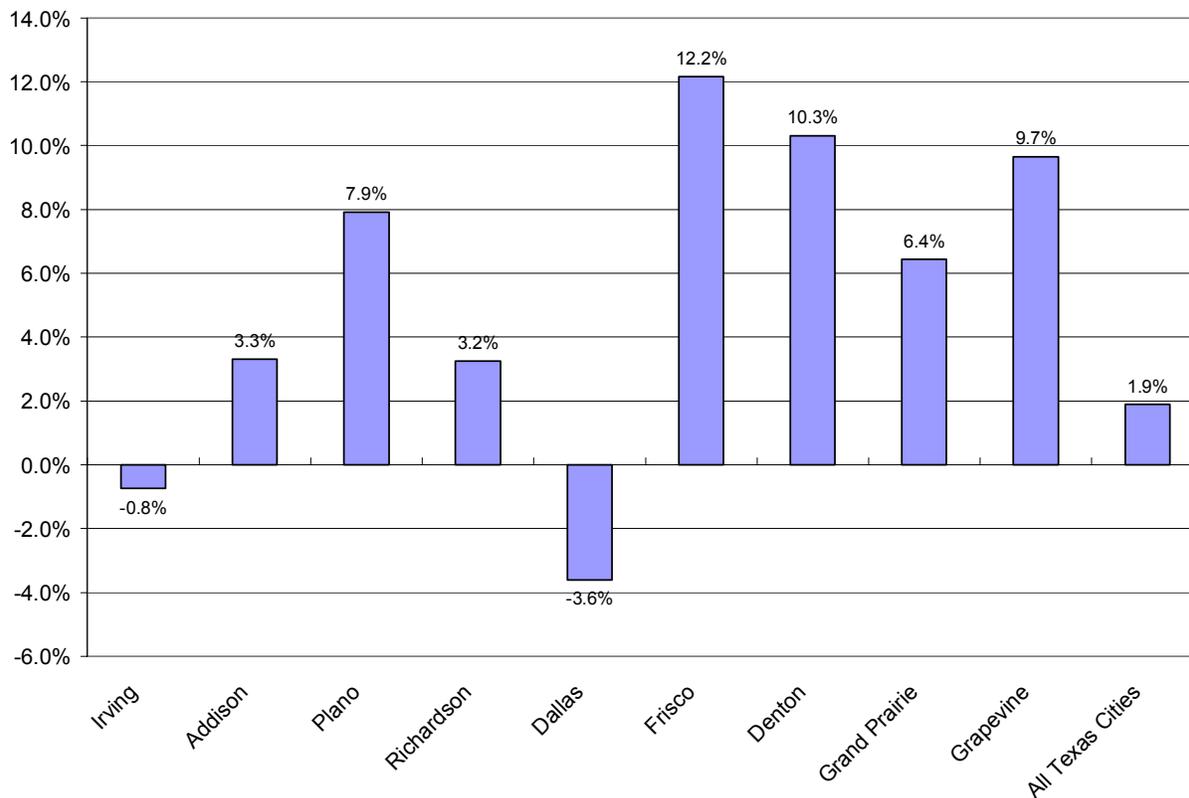
Figure 1
Year-Over-Year Change in Alcoholic Beverage Sales*
In the City of Dallas at Eating and Drinking Establishments



Source: Texas Comptroller of Public Accounts

Figure 2

Percentage Change in Year over Year Alcoholic Beverage Sales at Eating and Drinking Establishments 2002-2003*



Source: Texas Comptroller

The apparent loss of competitiveness of Dallas' bars and restaurants should be of great concern to Dallas' elected officials, not only for the potential impact it could have on hospitality venues, which provide significant property tax revenues into the city each year, but also for the impact this increasing loss will have on sales tax dollars and the city budget in years ahead. These preliminary findings are supported with anecdotal evidence offered by some of Dallas' premier restaurants that the smoking ban has clearly had a negative impact on alcoholic beverage sales.

Restaurant Industry Survey Reports Alcohol Sales Losses Range from 9% to 50% Since Ban Was Passed

Among the restaurant community it is a given that the smoking ban has had an effect, in some cases a significant effect, on some restaurants and has led to the perception that Dallas is losing its hospitality industry friendly reputation.

In a survey conducted in the first quarter of this year, The Greater Dallas Restaurant Association (GDRA) asked its members to respond to a short questionnaire. The survey asks restaurant owners or managers the following questions:

- Do you have a bar?
- Has your bar experienced a loss in sales since the smoking ban was imposed?
- What was the percentage loss?
- Have you experienced a loss in sales in the dining room since the ban?
- What is the percentage of loss?
- Has your restaurant experienced an increase in sales that you attribute to the smoking ban?
- Can you share comments on the ban from your patrons?

The question regarding an increase in sales addresses a specific prediction issued by proponents of the smoking ban that there are thousands of patrons who did not dine in Dallas restaurants because of the presence of smokers somewhere in the building.

According to responses received by the GDRA, restaurant owners have seen alcoholic beverage sales decline anywhere from 9 percent to over 50 percent since the Dallas smoking ban went into effect. Owners and managers of these establishments report mixed results in food sales, with one restaurant indicating no impact on food sales while others claim as much as a 25 percent loss in food sales. No responding restaurant indicated they had gained revenues since the smoking ban's inception

The year 2003 was certainly one of upheaval for the Dallas restaurant and bar trade. Venerable and well-respected establishments such as Marty's, The Riviera, Il Sorento, and Star Canyon closed their doors. Other casualties of note include Matt's No Place and Liberty Noodle. While the economy is certainly one factor, and the significant loss of convention and business meetings in Dallas another, the timing of the ban clearly has reduced revenues in the restaurant sector for some properties and been the "straw" that broke the financial backs of other properties.

We caution that these observations do not necessarily represent the experience of those restaurants not responding. But there is no doubt those who reported a loss of sales associate their declining revenues with the smoking ordinance.

Indeed, ancillary sales are also affected by the smoking ban. One top-of-market steak house reported losing between \$10,000 and \$15,000 per month in cigar sales since the ordinance took effect—this after having spent \$50,000 on air filtration equipment to make sure that smoking and non-smoking patrons could equally enjoy their dining experience.

The Smoking Ban is Changing the Way Hospitality Owners Do Business in Dallas

As suggested above, Dallas may not have seen the full effect of the changing competitive landscape precipitated by the smoking ban. Full-service, upper-end restaurants may be less

inclined to keep a location in Dallas. However, they are under existing building leases and could face substantial financial penalties for moving before their leases expire.

The City of Dallas is also facing a changing competitive environment in the hospitality trade. The center of population is moving north and west of the city. The cities around Dallas are making their communities more hospitality friendly in attracting quality restaurants and other eating and drinking venues. The recent positive response to local wet-dry options in McKinney, Allen, and Rowlett in all likelihood will make these suburbs even more attractive to restaurateurs. These and other Dallas competitors have growing populations, relaxed alcoholic beverage sales requirements, and smoking ordinances that recognize the value of letting restaurant managers decide how best to serve their clientele. It is telling that no other cities in the region or state have followed Dallas' lead in adopting very restrictive smoking ordinances.

Both Austin and San Antonio passed new smoking ordinances in 2003 that allow smoking in restaurants or restaurant bars in some fashion. The City of Allen, immediately after Dallas passed its smoking ban ordinance, passed a smoking ordinance resembling those adopted by its neighboring cities of Frisco and Plano, not Dallas.

From press reports, it appears the negative effects of the smoking ordinance are not limited to restaurants. The hotel community has also suffered from the ban. Two conventions moved their meetings to suburban locations shortly after the ban was announced. Here, too, the City of Dallas has put in place regulations that ban smoking in hotel private meeting rooms and banquet facilities that run counter to the market. No other city in the Dallas area has such restrictions, putting the Dallas hotel community at a competitive disadvantage in attracting those private meetings where smoking may be requested as an option.

While the *region* still enjoyed the economic benefits from these visitors, the City of Dallas lost business and tax revenues. Hoteliers are reporting, at least anecdotally, a decline in interest in the City of Dallas as a meeting site in part because of the smoking prohibitions.

With less onerous smoking ordinances and new competition in the suburbs—most notably the Gaylord Texan Resort and Conference Center in Grapevine—Dallas' hospitality venues will be hard-pressed to attract the level of meeting and banquet business to which the city has grown accustomed.

Conclusions

Sufficient evidence exists to suggest that at least some of Dallas' premier restaurants have lost business because of the smoking ban. Their revenue losses translate into fewer jobs and lost tax revenue to the City. The hordes of new customers looking for smoke-free dining experiences have not shown up at the tables. Moreover, there is little indication that its suburbs are following Dallas' lead and adopting stringent smoking regulations for their hospitality venues. Therefore, Dallas' smoking ban will continue to push existing and new restaurants and hotels to the suburbs with associated losses to local jobs and tax revenues.

A prudent course of action for the City of Dallas, given its relatively weak economic performance and substantial need for tax revenue, would be to rescind the ban and direct the

efforts of eliminating smoking in dining establishments towards a statewide change in law that would allow Dallas' restaurants to compete on a level playing field.

Elected officials should be wary of generalized studies indicating no impact is occurring on restaurants in Dallas. While there are many confounding factors in measuring the true impact in the aggregate, there are clear indications that the smoking ordinance, one year after enactment, is contributing to restaurants and other hospitality venues in Dallas losing business at greater rates than before the ordinance was passed.

New or revised studies will probably be released showing that the smoking ban in Dallas has had no impact on restaurant sales. And, there will likely be some individual restaurants that will report an increase in overall sales after the ban was imposed. However, as suggested earlier, reports used by smoking ban proponents are often based on data that are not disaggregated enough to examine the presence of any potential impact on businesses most likely to be affected. Moreover, even if overall restaurant sales are higher than the same month as last year, that may only reflect the return of local consumer confidence—actual sales could have been even higher without the ban.

The full effect of the smoking ban may not be fully realized for many months, possibly years. As existing leases expire, restaurants negatively affected by the smoking ordinance have more flexibility in considering a change in location, moves that will be encouraged even further if local suburban voters choose to allow greater freedom for restaurants to sell alcoholic beverages in their communities. Unfortunately, once restaurants have relocated to the suburbs, it will be too late to reverse the trend.

We urge Dallas officials to review whether their policies are harming one of the most reliable sectors of the city's economy. At a time when population and economic shifts continue to push activity to the suburbs, it makes little sense for policymakers to put the city's hospitality businesses at a competitive disadvantage. Doing so certainly detracts from Dallas' hard-earned regional and national reputation as a hospitality industry friendly city.