

First Year Updates: April 1, 2005 to March 31, 2006

2004 Bloomington Workplace Smoking Ordinance

INTRODUCTION

On August 15, 2005 and November 21, 2005, the City Council was presented with a the three-month and the sixth-month reports on the economic impact on establishments licensed to sell alcoholic beverages and conduct charitable gambling for a period of the City's smoke-free ordinance. These reports contained data related to food sales, liquor sales and charitable gambling and the results of a public opinion poll.

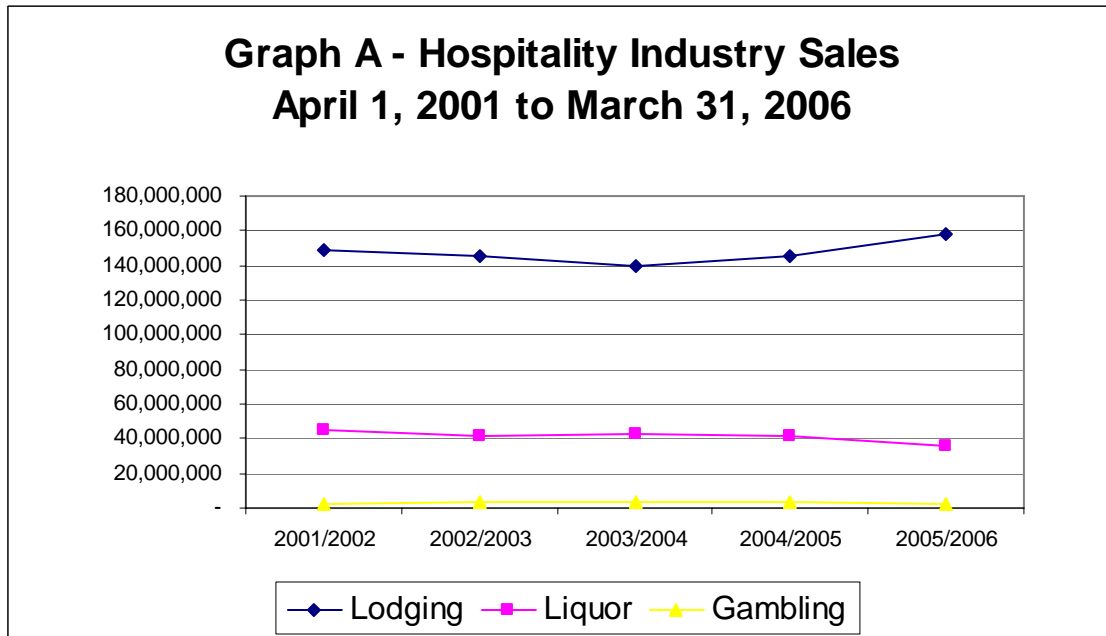
This new report reflects updated lodging, liquor and food sales, and charitable gambling data for the first year from April 2005 through March 2006. In addition this report will outline issues that have come up since the November report.

DATA SUMMARY

Financial Information Discussion – 1st Year:

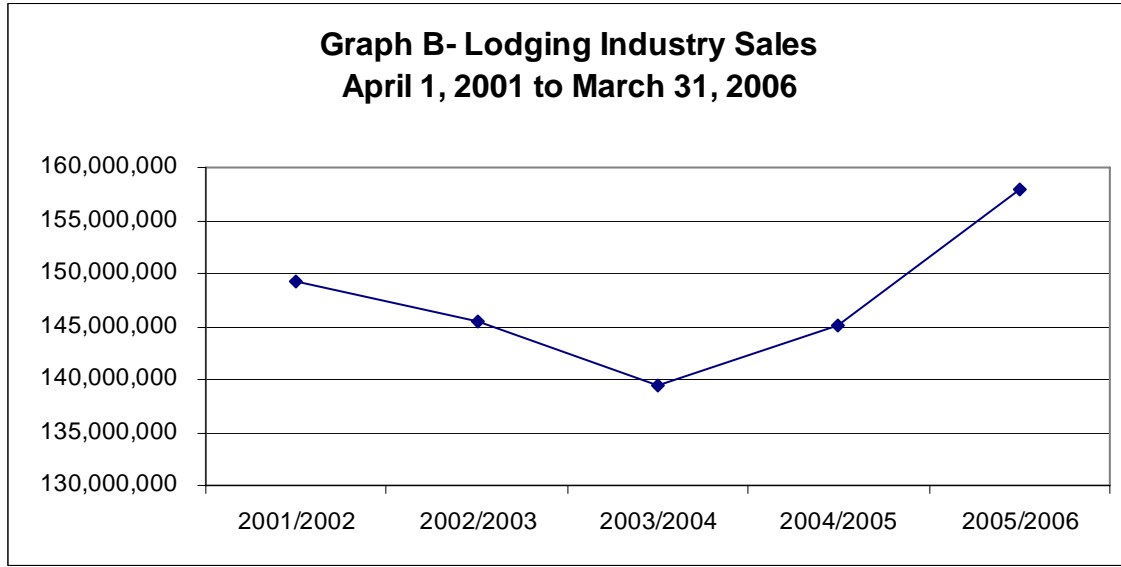
The City of Bloomington's largest industry is hospitality. Bloomington has over 7,000 hotel rooms, which is more than Minneapolis and St. Paul combined. The City also has approximately 250 restaurants of which 65 serve hard liquor and beer over 3.2 percent alcohol. Bloomington is unique in that it collects lodging and liquor sales tax directly versus other municipalities that have the State collect the taxes. All liquor tax receipts go to the Bloomington Port Authority for the Mall of America and related purposes. There are 12 locations within the City which provide charitable gambling.

Graph A demonstrates the magnitude of hospitality activities within our City.



Lodging Tax Revenues

Staff reviewed the lodging tax revenues for April 2001 through March 2006 to determine if the smoking ban had a significant impact on this industry. **Graph B** reflects no visible impact of the smoking ban and the industry, as a whole, continues to rebound since 2003.



Liquor Tax Revenues

The liquor tax revenue information is presented in two ways: 1) **“All”** liquor establishments that have come or gone within the time period of April 2001 to March 2006; and 2) **“Consistent”** only those establishments that have consistently operated during the entire period under review, or, if the business closed, another business of similar size replaced the closed business within a relatively short period of time.

Appendix A lists the establishments within both categories. The following Tables 1-7 were created to determine if there were any significant trends established due to the smoking ban.

Table 1: Growth in Total Liquor Taxes Collected

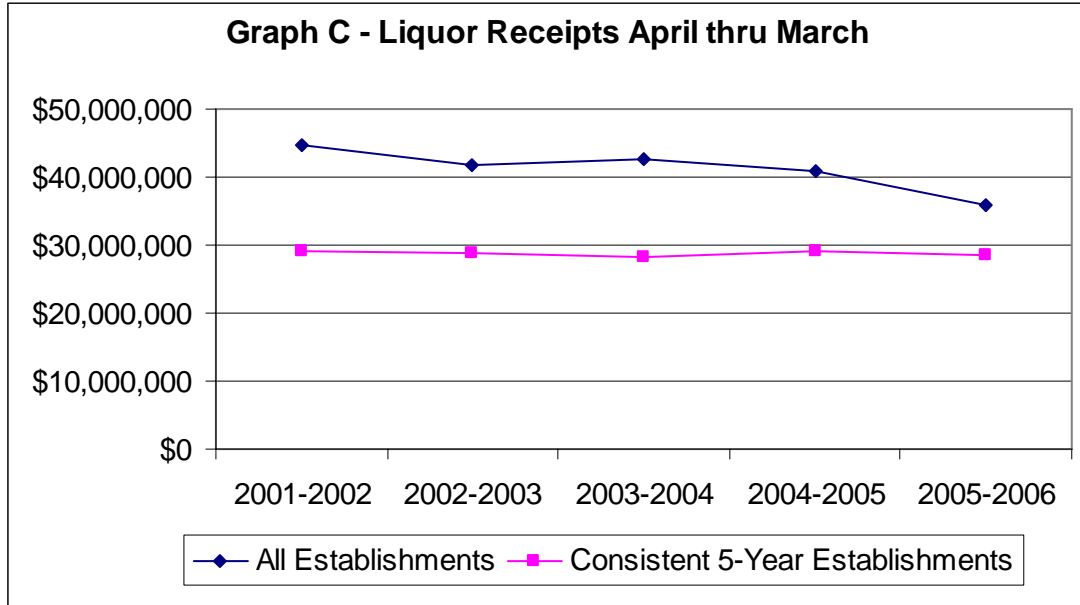
	2001/2002	2002/2003	2003/2004	2004/2005	2005/2006
One Year (April to March)					
All Est.	-0.31%	-6.67%	1.46%	-2.14%	-12.54%
Consistent	-8.9%	-5.7%	-3.17%	0.49%	-1.85%

In reviewing “All” establishments and the “Consistent” establishments from April to March for 2001 to 2006, there continues to be a wide fluctuation of activity. Specifically in “All” category, three “Sport Bars” establishments were closed in 2005. If those businesses had not closed and their revenues in 2005/2006 had been identical to

2004/2005 the net decrease in total liquor sales for the “All” category would have been only 2.72.

The graph C below reflects that for the “All” business category there has been a downward trend in liquor sales since 2001. In addition this graph reflects that the liquor sales for the “Consistent” business category as a whole have been relatively flat.

Graph C Demonstrates the one-year activities of both the “All” and “Consistent” liquor sales.



Liquor Sales Tax Collections by Category

To provide further assistance with reviewing the financial information to see if a particular type of business was more or less affected by the smoking ban, businesses were categorized into the following: Chains, Ethnic, Private Clubs, Sports Bars, and Hotel/Upscale. Again we have sorted the information into “All” and “Consistent” establishments. It is important to note that individual businesses will not be identified, as all liquor sales tax return information is confidential. **Appendix A** lists the establishments that are in each category. The following tables reflect the average percentage change and range of percentage changes for the first year (Table 2). The wide ranges within each business category for both “All” and “Consistent” reflect no significant trends.

**Table 2: Liquor Sales Tax Collections by Category – One Year
(April 2005 to March 2006)**

Business Category	All Est. Average	Range	Consistent Est. Average	Range
Chains	-10.53%	-94.48 to +41.28%	-7.53%	-30.49% to +10.86%
Ethnic	1.66%	-84.74% to +73.00%	.54%	-84.74% to +73.00%
Hotel Restaurants & Upscale	4.37%	-74.71% to +38.56%	6.18%	-7.24% to +38.09%
Private Clubs	-10.55%	-30.73% to +24.09%	-10.55%	-30.73% to +24.09%
Sports Bars	-33.24%	-86.24% to +21.37%	-1.19%	-17.67% to +21.37%

A table 3-7 reflects changes in the average liquor sales that occurred in this first year of the smoking ban with previous years 2001-2005.

Table 3: Liquor Sales Tax Collections “Chains”

	2001/2002	2002/2003	2003/2004	2004/2005	2005/2006
<u>All Establishments</u>					
April-March	3.83%	-6.59%	-2.54%	2.04%	-10.53%
<u>Consistent Est.</u>					
April-March	3.46%	2.48%	-5.45%	5.42%	-7.53%

Conclusion: The net changes that occurred within the “Chain” business category are consistent with prior years’ fluctuations for both the “All” and “Consistent” distributions. The Chains businesses continue to experience downward trending sales over the last five years but there is no clear indication that the “Chains” business were negatively impacted due to the smoking ban. **Graph D** below reflects the liquor sales for “Chain” establishments.

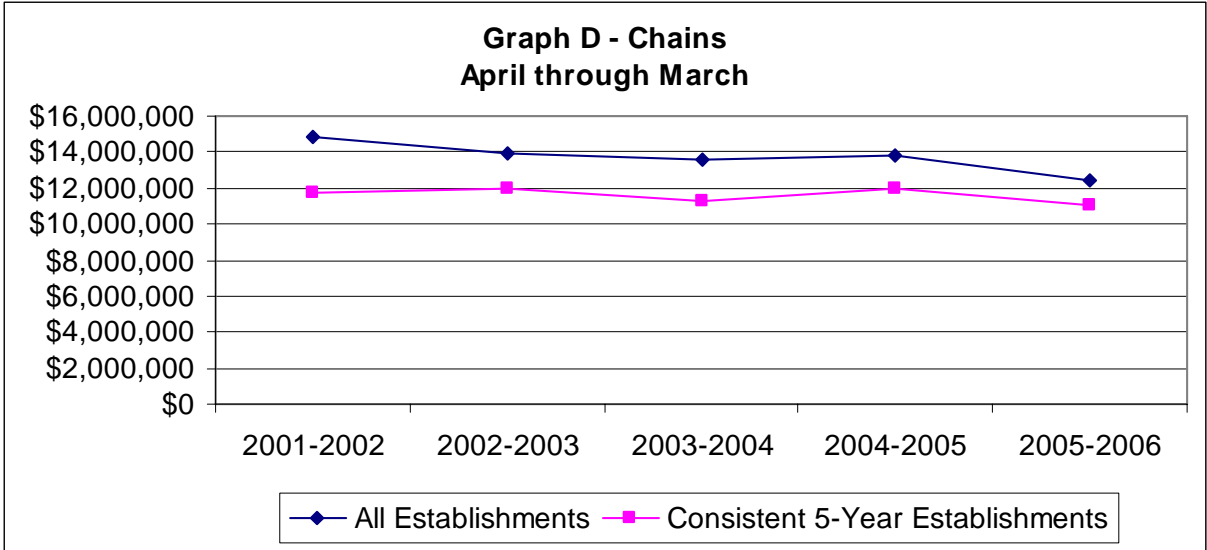


Table 4: Liquor Sales Tax Collections “Ethnic”

	2001/2002	2002/2003	2003/2004	2004/2005	2005/2006
<u>All Establishments</u> April-March	%	-1.24%	-1.51%	13.66%	1.66%
<u>Consistent Est.</u> April-March	%	-1.12%	-3.48%	3.97%	.54%

Conclusion: The net changes that occurred within the “Ethnic” business category for April 2001 to March 2006 are consistent with prior years’ fluctuations for both the “All” or “Consistent” distributions. Since April 2004 retail liquor sales have increased. Graph E reflects the average liquor sales for both of these categories.

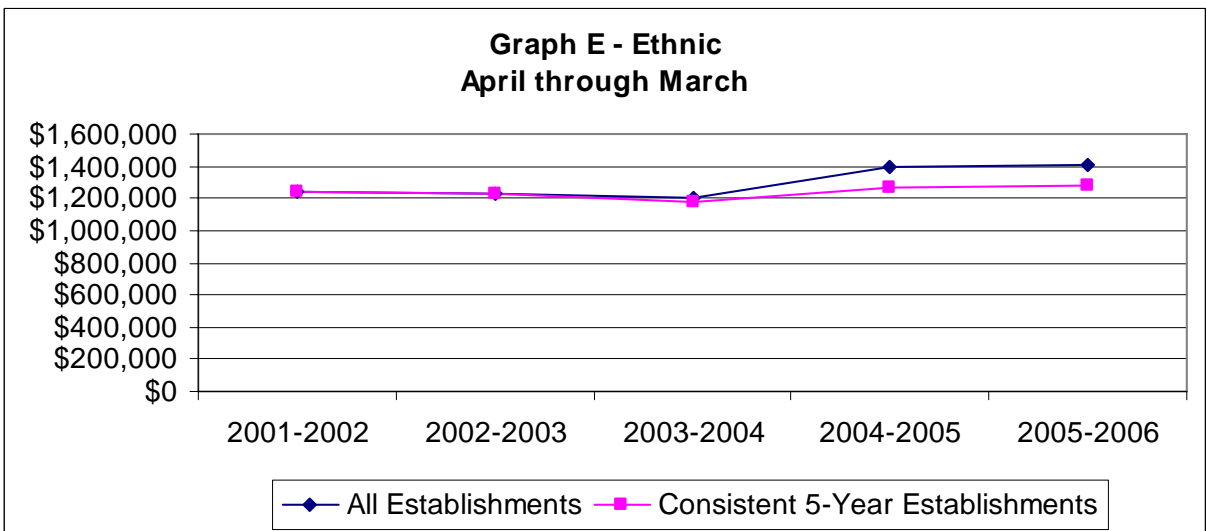


Table 5: Liquor Sales Tax Collections “Hotel Restaurant & Upscale”

	2001/2002	2002/2003	2003/2004	2004/2005	2005/2006
<u>All Establishments</u>					
April-March	%	-3.36%	-2.06%	-5.28%	4.37%
<u>Consistent Est.</u>					
April-March	%	-2.69%	1.67%	1.39%	6.18%

Conclusion: The net changes that occurred within the “Hotel Restaurants & Upscale” business category are consistent with prior years’ fluctuations for both the “All” and “Consistent” distributions. This business category appears to have been positively impacted by the smoking ban. Graph F demonstrates the increase liquor sales for this category.

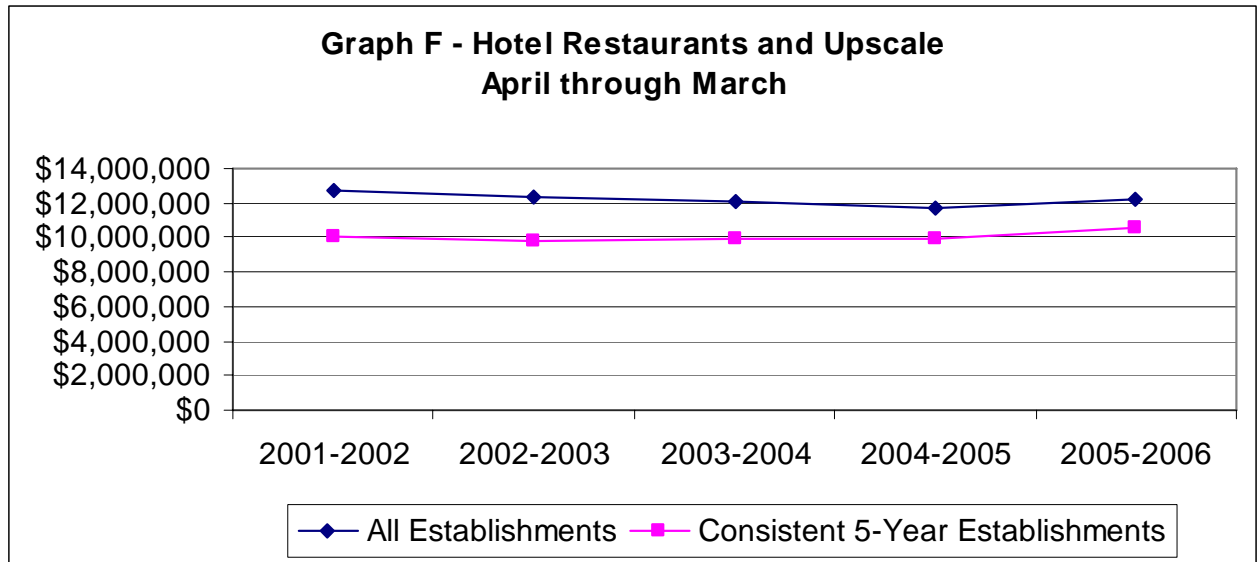


Table 6: Liquor Sales Tax Collections “Private Clubs”

	2001/2002	2002/2003	2003/2004	2004/2005	2005/2006
<u>All Est. and Consistent are the same</u>					
April -March	%	-1.79%	.65%	3.07%	-10.55%

Conclusion: The net changes that occurred within the “Private Clubs” business category is not consistent with prior years’ fluctuations for both the “All” and “Consistent” distributions as the April through March 2006 liquor sales have dropped significantly.

Graph G reflects the April 2005 through March 2006 change that can in part be attributed to the smoking ban.

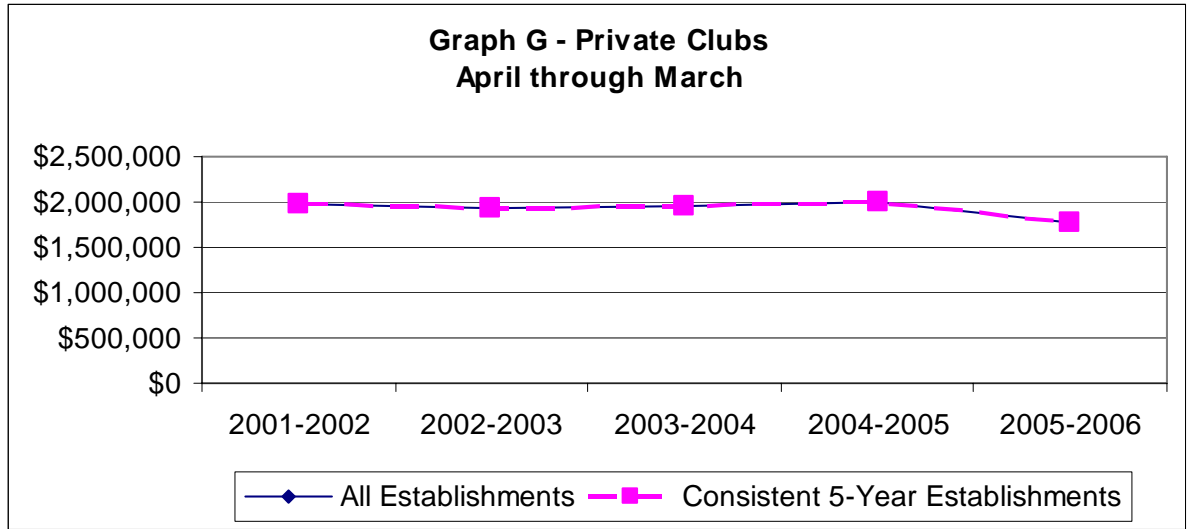
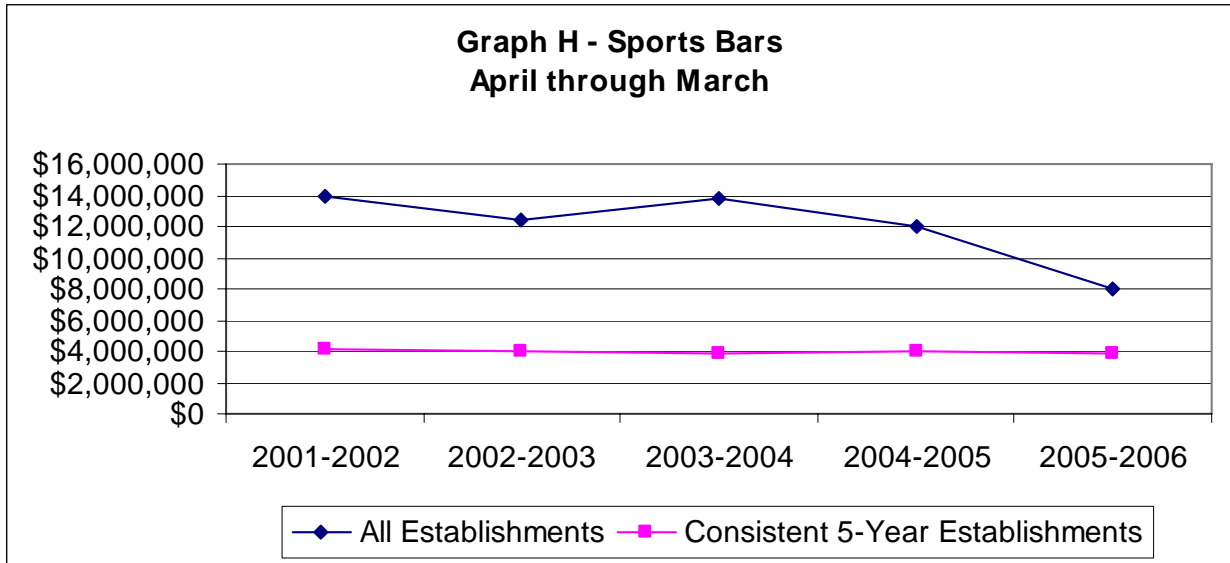


Table 7: Liquor Sales Tax Collections “Sports Bars”

	2001/2002	2002/2003	2003/2004	2004/2005	2005/2006
<u>All Establishments</u> April - March	%	-10.95%	11.32%	-3.15%	-33.24%
<u>Consistent Est.</u> April-March	%	-3.27%	-5.39%	-1.61%	-1.19%

Conclusion: The net changes that occurred within the “Sports Bar” business category fluctuated widely in prior years for both the “All” and “Consistent” distributions. This business category had significantly more business turnover than the other categories. Several large sport bar locations closed during 2004 and 2005 and the steep decline in the All establishments for 2005/2006 reflects those closures. As stated above in the overall liquor sales there were 3 specific Sport Bar establishments reviewed and if their revenues for 2005/2006 had remained at the same level as 2004/2005 the net impact in the All category for Sports Bars would have been a positive .14%. Therefore the “All” establishments in Sports Bars category have not been negatively impacted by the smoking ban. In the Consistent establishments there has not been a negative impact by the smoking ban. Graph H reflects the information on Sports Bars.



Summary Liquor Conclusions:

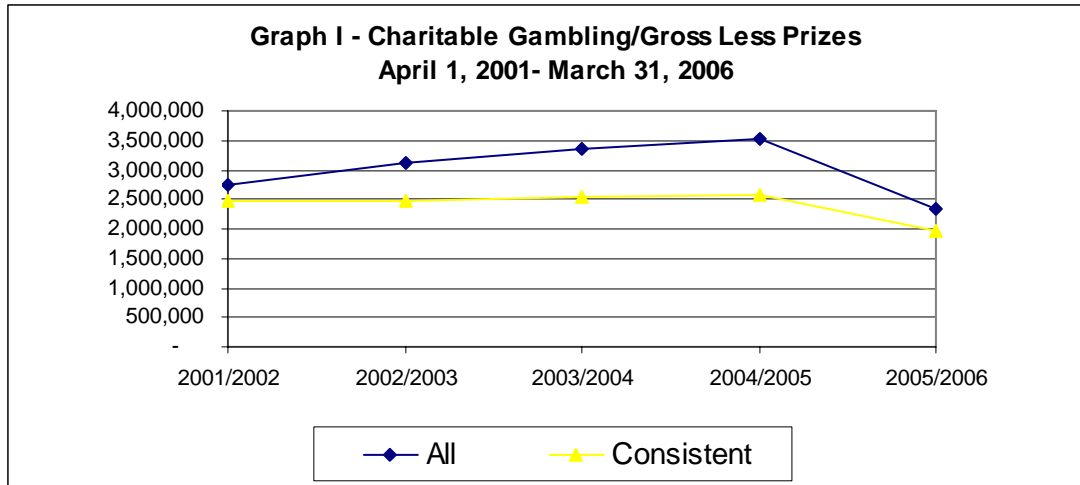
In summary, the lodging sales tax returns reflected no significant impact from the smoking ban. The liquor sales tax returns detailed on the one year **Graph C** reflect a downward trend for the “All” establishments and a relatively flat line for the “Consistent” establishments in liquor sales since April of 2001. For the first year of the smoking ban, there has been approximately a 1.85 to 12.54 percent drop in liquor tax revenues. But as noted above three large Sport Bars establishments were closed in 2005. Had those establishments remained opened and operating at the previous year level the net change in would have been a reduction in sales between 1.85% and 2.72%. Therefore, there is no conclusive evidence at this time that the decrease in liquor revenue since March 31, 2005 can be attributed solely to the smoking ban.

Food Sales Information

In July 2005 the current 65 locations that submit liquor sales tax were requested to provide “Food Sales” information from January 2004 through June 2005. Approximately 52 percent (33) responded to the survey. Since July 2005, most of the 65 establishments have continued to report their food sales. It is very difficult to make assumptions or comparisons on whether the smoking ban has positively or negatively impacted the food sales for those establishments that have liquor licenses until such time that food sales data has been collected from all establishments for over a two-year period. As noted above, there are approximately 250 restaurant locations within the City, but only 65 have liquor licenses. The information we are now receiving is only from these 65 establishments. **Appendix B** provides a list of the Food to Liquor Ratios for Bloomington establishments. Finally, there were no indications within the limited food survey that the smoking ban has affected food sales in on-sale establishments. The food sales at non-licensed establishments is unknown.

Charitable Gambling Summary

Graph I reflects charitable gambling receipts in Bloomington from April 2001 to March 2006. This comparison showed a decline of 49.45 percent for “All” establishments and a decline of 30.63 percent for “Consistent” establishments between April 2005 to March 2006 compared to the same period in 2004/2005. Total charitable gambling receipts for the state continue a declining trend and Hennepin County has a experienced greater decline than other metro counties.



SMOKING BAN ORDINANCE COMPLAINTS AS OF JUNE 1, 2006

Staff continues to track complaints regarding violations of the ordinance; there have been very few. Primarily, the complaints are in regard to violation of the 25-foot rule and smoking in a place of work. Staff is working with businesses to help them comply and adapt to this rule.

- 1. Smoking inside a private apartment dwelling unit (6)
- 2. Smoking in underground garage (2)
- 3. Smoking within 25 ft. of door (11)
- 4. Smoking in a place of work (11)
- 5. Ashtray within 25 ft. setback (1)

The complaints for smoking inside a private residence are non-complaints (not a code violation). Legal is working on the interpretation of the underground garage complaints.

ENFORCEMENT

In mid-November staff issued a citation on a routine food inspection to a proprietor of a place of work for allowing smoking in the workplace and for having ashtrays in areas not permitted for smoking. No additional citations have been written.

SURGEON GENERAL REPORT SUMMARY

As part of the 2004 Smoke-Free Workplaces / Restaurants & Bars Study, a literature review was conducted concerning the harms of secondhand smoke. The review found that there is no safe level of secondhand smoke exposure. On June 27, 2006, the Surgeon General of the United States released a report entitled, The Health Consequences of Involuntary Exposure to Tobacco Smoke. This report not only confirmed that there is no safe level of secondhand smoke but the report also cited five other major conclusions.

It contained the following major conclusions:

1. Many millions of Americans are still exposed to secondhand smoke in their homes and workplaces despite substantial progress in tobacco control.
2. Secondhand smoke exposure causes disease and premature death in people who do not smoke.
3. Children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory infections, ear problems, and more severe asthma. Smoking by parents causes respiratory symptoms and slows lung growth in their children.
4. Exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer.
5. The scientific evidence indicates that there is no safe level of exposure to secondhand smoke.
6. Eliminating smoking in indoor spaces fully protects people from exposure to secondhand smoke. Separating sections, air cleaning systems, and ventilating buildings cannot eliminate the risk of exposure to secondhand smoke.

This country has experienced a substantial reduction of involuntary exposure to secondhand tobacco smoke in recent decades. Significant reductions in the rate of smoking among adults began even earlier. Consequently, about 80 percent of adults are now nonsmokers, and many adults and children can live their daily lives without being exposed to secondhand smoke. Nevertheless, involuntary exposure to secondhand smoke remains a serious public health hazard.

AIR QUALITY

In 2005, the Minnesota Partnership for Action Against Tobacco (MPAAT) commissioned a study to assess the impact of smoke-free ordinances on the indoor air quality of selected Twin City Metropolitan Area bars and restaurants. Indoor air quality monitoring took place before and after the implementation of smoke-free ordinances that went into effect for Ramsey and Hennepin counties on March 31, 2005. The study was conducted by the Minnesota Institute of Public Health (MIPH) in collaboration with the Center for Energy and the Environment (CEE) with funding from the Minnesota Partnership for Action Against Tobacco.

The purpose of this study was to examine indoor air quality in a sample of bars and restaurants to assess the relationship between indoor air pollution and the presence of smoke-free ordinances.

Air quality monitoring was conducted before and after the implementation of smoke-free ordinances in 25 venues in Hennepin, Ramsey and Dakota counties during the period of March 2005 (pre-ordinance monitoring) through June 2005 (post-ordinance monitoring). The Hennepin County ordinance covers both bars and restaurants while the Ramsey County ordinance exempts bars where liquor sales are greater than 50 percent of total food and beverage sales. Dakota County does not have a smoke-free ordinance and was used as a control county for this study.

Air quality monitoring was conducted on Friday and Saturday nights between the hours of 6:00 p.m. and midnight. Measurements were also taken on Fridays over the noon hour. For each establishment the post-monitoring was conducted on the same day of week and approximately the same time of day as the pre-monitoring for that establishment. No monitoring was conducted over holiday weekends. Venues were monitored for approximately 60 minutes during each testing period.

The study found that:

- Hennepin County's comprehensive smoke-free ordinance helped reduce harmful air pollution in bars and restaurants by 99 percent.
- Bar and restaurant employees and customers in communities with either partial smoke-free ordinances or no ordinances at all continue to breathe air pollution at levels that exceed EPA annual exposure limits by 2½ to 3½ times.
- People in bars and restaurants covered by partial smoke-free ordinances breathe air that is more polluted than that found in a typical bus terminal and much less clean than typical outside air.

ACCESSORY STRUCTURES/SMOKING SHELTERS

In December 2005 City Council updated the City Code regarding the establishment of smoking shelters. The prior ordinance did not specifically address smoking shelters and the regulations with regard to them. The City of Bloomington Planning Division has not yet received any applications for smoking shelters.

UPDATE REGARDING TWIN CITIES METROPOLITAN AREA SMOKING ORDINANCES

Since the last report, some changes have occurred concerning smoke-free ordinances in the Metropolitan area. The City of St. Paul under the direction of Mayor Chris Coleman strengthened its ordinance to include bars that had been exempt in the past. This change went into effect on March 31, 2006.

Hennepin County changed its current ordinance to allow the following exemption. Food Establishments meeting either one of the following criteria are eligible for an exemption from the requirements of the county ordinance:

A. The Food Establishment's sales of beer, non-intoxicating malt liquor, 3.2 percent malt liquor, wine, and intoxicating liquor are more than fifty percent of its total gross sales of food and beverages, as reported to the Minnesota Department of Revenue and/or local municipality for the preceding calendar year.

B. Private Clubs, except when they are open to serve food and/or beverages to the public that are not members. Guests accompanied by members are considered to be members. No Private Club shall be exempt from the smoke-free provisions of this Ordinance if it is established to avoid compliance with this Ordinance.

These changes went into effect on January 3, 2006 and will sunset on July 31, 2007.

The cities of Minneapolis and Golden Valley and Ramsey County have made no changes to the ordinances they passed in 2005.

CONCLUSIONS

- 1. There have been few complaints and minimal enforcement cost.**
- 2. There has been a rebound in lodging tax receipts since 2003.**
- 3. In the "consistent" establishments over the 5-year period, April through March 2001-2006, there has been minimum change in liquor sales tax receipts.**
- 4. In "all" establishments over the 5-year period, April through March 2001-2006, there has been a downward trend in liquor sales tax receipts. Business changes in 2005 significantly impacted the reduced liquor sales reduction reflected in the "all" category for 2005/2006.**
- 5. There is insufficient information available in all food sales.**
- 6. The downward trend in charitable gambling continues.**

- 7. Community organizations that have counted on gaming revenues to fund their programs may need to find other sources of funding as the City's legal ability to "fill the gap" is strictly limited.**
- 8. The City Council approved the definition for a smoking shelter (enclosed indoor space) and no permits have been issued since December 2005 for a shelter.**
- 9. Hennepin County's comprehensive smoke-free ordinance helped reduce harmful indoor air pollution by 99 percent.**
- 10. Statewide uniformity would level the playing field.**