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Smoking bills may test if tobacco is still king in Va.

RICHMOND

When Ben Moskowitz goes out to eat, he takes his wife, his wallet and a prescription inhalant for his chronic bronchitis.

He tries to avoid restaurants that allow smoking. But sometimes when he's away from home or in a crowded shopping mall, there aren't options.

"If there's smoke in the air, even back in the kitchen, I start coughing my head off," said Moskowitz, 83, a retired Virginia Beach electrician.

Should state government protect Moskowitz and millions of others by banning smoking in restaurants? The debate is fuming in the General Assembly this winter, where lawmakers are considering about a dozen bills that would limit lighting up.

A coalition of health-care groups, saying the costs of secondhand smoke on lives and the economy are too great to ignore, wants to ban smoking in restaurants. The measure is endorsed by Gov. Timothy M. Kaine and appears to have safe passage through the state Senate, which has approved the ban in each of the past two years.

But a snag remains in the House of Delegates, where Republican leaders say government should not referee smoking in restaurants.

"Restaurant owners don't need government to tell them what to do," said Del. Tom Gear, R-Hampton, who heads a subcommittee that has killed the bill without a recorded vote in each of the past two years. "If they're losing customers because of secondhand smoke, they're free to put up 'no smoking' signs. I've got three restaurants I frequent and they've all gone nonsmoking over the last year."

Twenty-three states ban smoking in restaurants, according to the National Conference of State Legislatures. In Virginia, however, tobacco has been a sacred leaf.

The state's economy was founded on tobacco and has long relied on it. Philip Morris USA, the nation's largest cigarette producer, and its corporate parent, Altria, are headquartered in Richmond. The tobacco industry last year contributed \$467,000 to state election campaigns, including \$276,000 from Altria.

This year, however, tobacco is facing particularly strong challenges at the Capitol.

In addition to the restaurant ban, Kaine is asking the General Assembly to double the cigarette tax to 60 cents a pack.

The proceeds would offset about \$150 million in Medicaid cuts Kaine has proposed to balance the state budget.

Kaine says his plan would require smokers to pay a larger share of the \$400 million in Medicaid costs the state annually absorbs from cigarette-related illnesses.

The tax appears headed for defeat, however. Many lawmakers say the levy would disproportionately hurt low-income people who are already struggling in the recession.

The increase is strongly opposed by Philip Morris and Altria, which have invested \$1 billion in recent years building new headquarters in Richmond.

The smoking ban, too, may face long odds. "Unless I learn something brand new, I'm going to vote against it," Gear said.

Anti-smoking groups see a few new rays of hope. For starters, all 140 House seats will be up for election this year. Advocates of the smoking ban say the measure has broad public support that lawmakers may be reluctant to challenge.

"We're still hearing, 'No, ' from some legislators, but we're no longer hearing, 'Hell, no,' " said Cathleen Grzesiek, a lobbyist for the American Heart Association.

Much of their optimism is pinned on organizational changes within the House of Delegates. Speaker William Howell, R-Stafford, has assigned smoking-ban bills to the House General Laws Committee. The chairwoman of that panel during the past two years - Del. Terrie Suit, R-Virginia Beach - sent the bills to Gear's six-member subcommittee, where they died without a recorded vote.

Suit resigned last year to join a lobbying firm. The new General Laws chairman, Del. Chris Jones, R-Suffolk, favors smoking limitations and has promised that the restaurant ban will receive a "full and fair hearing."

Jones, however, would not say whether he plans to bypass Gear's panel, which smoking opponents call "the committee of death."

The anti-smoking lobbying is intense, led by the American Cancer Society, the American Heart Association and the American Lung Association. Last Wednesday the groups bused about 200 anti-smoking activists to Richmond - including Moskowitz and his wife, Grace - to urge lawmakers to pass the ban.

Moskowitz says the value of shielding businesses from regulation, while valid, is trumped by the importance of protecting the public from secondhand smoke.

"Grace and I can choose to walk out of a restaurant because of the smoke, and we've done that," he said. "But the people who work in restaurants don't have that choice. They have to stay there and breathe it in."

Gear dismisses that argument, saying there are plenty of nonsmoking eateries that are hiring.

"I can't remember the last time I went into a restaurant and didn't see a 'Help wanted' sign," he said.

Several lawmakers are seeking compromise. Del. John Cosgrove, R-Chesapeake, has introduced a bill that would require any smoking restaurant opened after July 2010 to have separately ventilated rooms for its puffers and non-puffers.

Under the measure, employees could not be required to work in the smoking rooms.

Cosgrove serves on Gear's subcommittee and opposes an outright smoking ban.

State Sen. Kenneth Stolle, R-Virginia Beach, is fashioning a bill that would define a restaurant as a business that makes 60 percent of its money from the sale of meals - not including alcohol.

Establishments meeting that criterion, not including private clubs, would have to be smoke-free.

Anti-smoking activists and many House Republicans show no desire to compromise, however.

"We would rather walk away than agree to bad public policy," said Grzesiek of the American Heart Association.

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