

VIRGINIA RESTAURATEURS WANT STATE TO BUTT OUT

By Seth McLaughlin

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Virginia lawmakers next month are expected to make another attempt to ban smoking in bars and restaurants, despite opposition from business owners who say the market should dictate when smoking is appropriate.

"The governor intends to propose legislation on smoking, though the exact wording has yet to be worked out," said Gordon Hickey, a spokesman for Gov. Tim Kaine. "He has said he supports a smoking ban in restaurants."

Mr. Kaine, a Democrat, pushed this year to ban smoking in restaurants in the name of public health. Legislators used similar arguments to approve a ban two years ago in the District and for a ban in Maryland, whose bars, restaurants and clubs will be smoke-free on Feb. 1.

But the governor learned that secondhand-smoke warnings are still a tough sell in the Old Dominion, where lawmakers often boast about their business-friendly nature and tobacco giant Phillip Morris USA is headquartered.

"If the restaurant guys and ladies want to be regulated, I think something could be done," said Delegate David B. Albo, Fairfax Republican. "Until then, you have the same problems with these bills we have had for years: It is un-American to come into someone's restaurant or bar and tell them what to do with their family business."

Virginia law now requires restaurants that seat 50 or more persons to designate no-smoking areas "sufficient to meet customer demand."

Barrett Hardiman, spokesman for the Virginia Hospitality and Travel Association, said his organization is ready for more smoking-related proposals to be introduced next year and "is still opposed to a smoking ban."

"It's a business issue for us," said Mr. Hardiman, whose group represents roughly 1,600 restaurants and hotels. "There are several restaurant owners who don't want to turn away people [who smoke] because they cater to that kind of crowd."

Kirk Harris, owner of Kirkpatrick's Irish Pubs in Ashburn, Va., and Haymarket, Va., agreed.

Mr. Harris, 43, said restaurant owners shape their policies based on "what the market dictates."

"Not every restaurant is the same," he said. "People come into my restaurant for snacks, food and entertainment — to watch sports or play [poker]. I have more people that would rather sit, eat, drink, be merry and have the opportunity to light up if they wish."

If lawmakers want to enact laws, they need to pay more attention to the advice of local owners, he said. For example, in one of his restaurants he allows smokers to light up at night but restricts smoking to a designated room during the day.

"To have the government tell us how to run our business infringes on our rights to run our businesses as small-business owners," he said.

The General Assembly passed a bill this year that would have required restaurants that allow smoking to post a "smoking permitted" sign at the entrance. But those restaurants no longer would have been required to offer a no-smoking section. Mr. Kaine tweaked the bill to simply ban smoking in restaurants statewide.

The Republican-controlled House rejected the amendment, and Mr. Kaine vetoed the bill.

Since then, Mr. Kaine has worked with the state health commissioner to develop similar legislation for the 2008 General Assembly that would, among other things, redefine the definition of a restaurant.

In addition, anti-smoking advocates lost one of their biggest supporters in the June primary.

State Sen. J. Brandon Bell II, Roanoke Republican and champion of smoke-free legislation, lost to Ralph K. Smith, a fellow Republican and former Roanoke mayor.

"If it was so popular to have a smoking ban, why did he lose?" Mr. Albo asked. "Why were there not a ton of people out rallying for him?"

Incoming state Sen. Ralph Northam, Norfolk Democrat, a medical doctor, has voiced support for a statewide smoking ban.

Some localities, including Norfolk and Alexandria, have looked at imposing local smoking bans.

The Alexandria City Council considered changing local zoning ordinances to force bars or restaurants requesting a permit to agree to be smoke-free. But legal concerns pushed the council to table the proposal.

Localities have also passed resolutions pressuring the General Assembly to give all cities the authority to ban smoking.