

**THE STATE OF SMOKE-FREE NEW YORK CITY:
A ONE-YEAR REVIEW**



*New York City Department of Finance
New York City Department of Health & Mental Hygiene
New York City Department of Small Business Services
New York City Economic Development Corporation*

MARCH 2004

EXECUTIVE SUMMARY

When the Smoke-Free Air Act went into effect on March 30, 2003, questions were raised about how the law would affect the City's restaurants and bars. Would the law hurt business? Would some establishments have to lay off workers or close?

One year later, the data are clear. The City's bar and restaurant industry is thriving and its workers are breathing cleaner, safer air.

Since the law went into effect, business receipts for restaurants and bars have increased, employment has risen, virtually all establishments are complying with the law, and the number of new liquor licenses issued has increased—all signs that New York City bars and restaurants are prospering. The vast majority of New Yorkers support the law and say they are more likely to patronize bars and restaurants now that they are smoke-free. And, most importantly, the health of all New Yorkers, customers and workers alike, is now protected from the harmful health effects of second-hand smoke.

The data show that:

- **Business tax receipts in restaurants and bars are up 8.7%;**
- **Employment in restaurants and bars has increased by 10,600 jobs (about 2,800 seasonally adjusted jobs) since the law's enactment;**
- **97% of restaurants and bars are smoke-free;**
- **New Yorkers overwhelmingly support the law;**
- **Air quality in bars and restaurants has improved dramatically;**
- **Levels of cotinine, a by-product of tobacco, decreased by 85% in nonsmoking workers in bars and restaurants; and**
- **150,000 fewer New Yorkers are exposed to second-hand smoke on the job.**

While this report focuses largely on the economic impact, if any, that the Smoke-Free Air Act has had on the food and beverage industry, it is important to keep in mind the primary intent of the law: to protect workers from exposure to second-hand smoke. Just 30 minutes of exposure to second-hand smoke produces some of the same physical reactions that occur due to long-term smoking, and can increase the risk of heart attacks in non-smokers. Now, because of the passage of the Smoke-Free Air Act, workers and patrons of the City's bars and restaurants are breathing cleaner, safer air every day.

The report is divided into 8 sections:

1. Bar and restaurant tax receipts
2. Bar and restaurant employment
3. Bar and restaurant openings and closings
4. Compliance with the Smoke-Free Air Act
5. Public opinion
6. Workplace air quality
7. Worker protection
8. The State of a Smoke-Free City

I. BAR AND RESTAURANT TAX RECEIPTS IN A SMOKE-FREE CITY

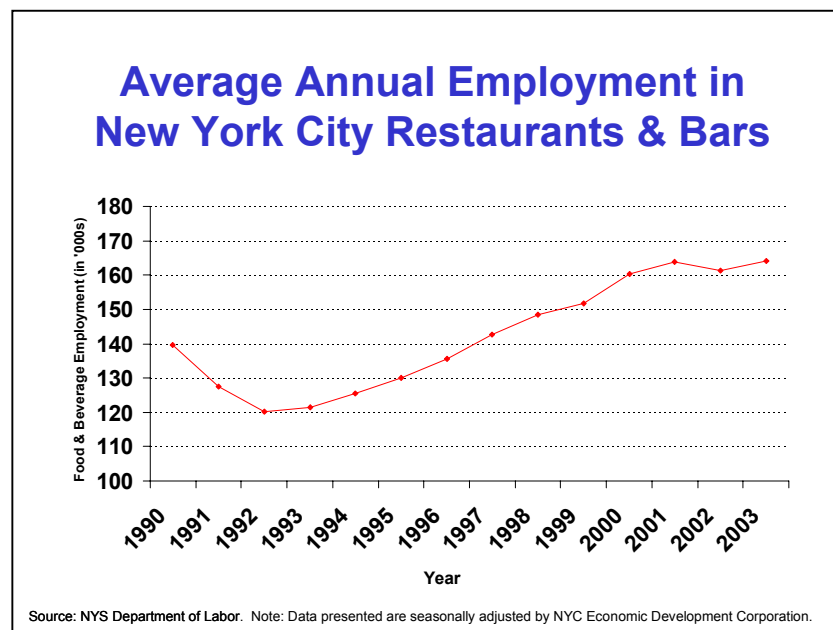
Data from the New York City Department of Finance show that the amount of money spent in New York City's bars and restaurants has increased over the past year.

From April 1, 2003, through January 31, 2004—the most recent data available—bar and restaurant business tax receipts were up 8.7% from the same period in 2002-2003. From April 2003 through January 2004, the City collected \$17,375,688 in tax receipts from bars and restaurants; in the same period one year previously, the City collected \$15,984,811.

II. BAR AND RESTAURANT EMPLOYMENT IN A SMOKE-FREE CITY

New York City's improved financial climate has translated into employment gains for the bar and restaurant industry. Now, as a result of the Smoke-Free Air Act, these workers can also enjoy a safer, smoke-free workplace.

Employment data from the New York State Department of Labor, and seasonally adjusted by the New York City Economic Development Corporation, show that the City's restaurant and bar industry is expanding once again after a downturn at the end of 2001 and throughout 2002 (prior to the implementation of the Smoke-Free Air Act). More people are employed in the City's bars and restaurants with an average number of workers employed in the industry during 2003 of 164,000, the highest number recorded in at least a decade.

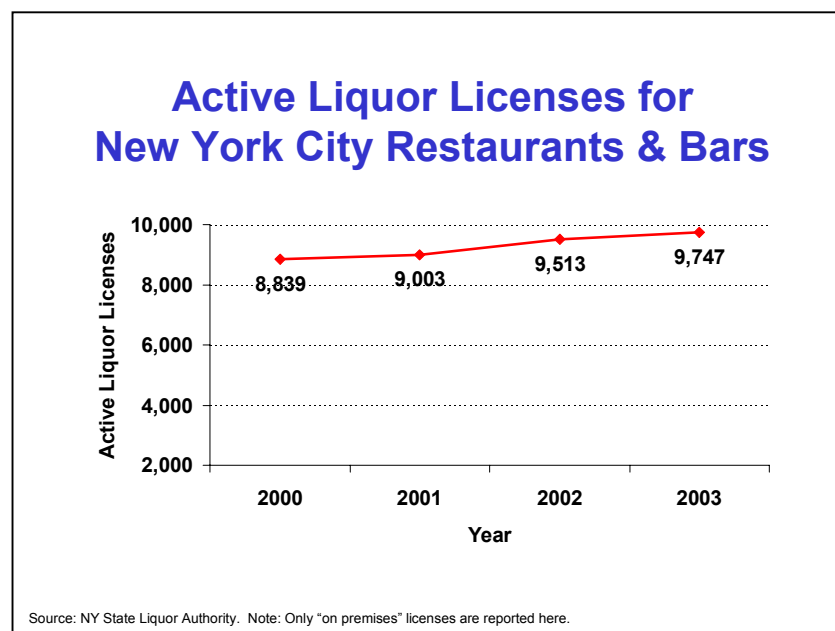


In the months following the law's enactment from March 2003 to December 2003, employment in New York City's restaurants and bars increased by about 2,800 seasonally adjusted jobs, amounting to an absolute gain of about 10,600 jobs.

III. BAR AND RESTAURANT OPENINGS AND CLOSINGS IN A SMOKE-FREE CITY

According to the New York State Department of Labor, the number of New York City bars and restaurants remained essentially unchanged between the third quarter of 2002 and the third quarter of 2003. This is an improvement compared with the same period in 2002, during which 280 more bars and restaurants closed than opened.

Furthermore, the New York State Liquor Authority issued 1,416 new liquor licenses to New York City bars and restaurants in 2003, compared with 1,361 issued in 2002, prior to the passage of the Smoke-Free Air Act. Citywide, at the end of 2003, there were 9,747 active liquor licenses—a net gain of 234 from 2002. Bar and restaurant owners as well as investors remain confident in the strength of the industry and of their ability to flourish in this vibrant and varied sector of the City's economy.



IV. COMPLIANCE WITH THE SMOKE-FREE AIR ACT

The overwhelming majority of City bars and restaurants are now smoke-free. The New York City Health Department inspected more than 22,000 establishments from April 2003 to February 2004. Of those inspected, 97% were smoke-free—no patrons or workers were observed smoking, no ashtrays were present, and “No Smoking” signs were properly posted.

Compliance with the Smoke-Free Air Act, April 2003 – February 2004

	All Food Service Establishments
Establishments inspected	22,003
Establishments cited for violation 15L only	2,219
Establishments cited for SFAA violations other than 15L	670
% smoke-free establishments	97%

Note: Violation 15L—failure to adequately post a smoke-free workplace policy—is considered a minor violation.

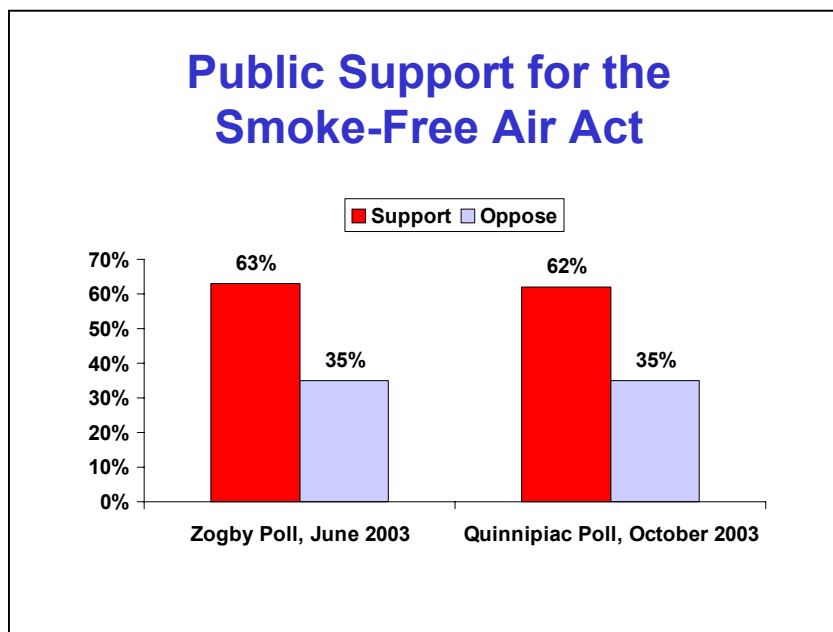
V. PUBLIC OPINION AND BAR & RESTAURANT ATTENDANCE IN A SMOKE-FREE CITY

New liquor licenses, employment growth, and increased tax receipts in the bar and restaurant sector all point to one conclusion: after a difficult 2001 and 2002, more people are spending more money in New York's bars and restaurants, and the City's protection of workers has not stopped this progress.

The overwhelming support of New Yorkers for the Smoke-Free Air Act suggests that the law did not hurt, and might even have helped, the bar and restaurant industry. In public surveys, New Yorkers consistently voice approval for smoke-free establishments.

Approval of the Law

- A poll conducted by Zogby International in June 2003 of voters throughout New York State showed that 63% of New Yorkers approved of the state Clean Indoor Air Act (CIAA), compared with 35% who opposed it. The poll showed even more support for the smoke-free law among New York City voters, with 69% supporting the law.
- A poll conducted by Quinnipiac University in October 2003 of New York City voters found that New Yorkers overwhelmingly supported the Smoke-Free Air Act by a margin of nearly 2 to 1 (62% supported vs. 35% opposed).



Going to Smoke-Free Bars and Restaurants

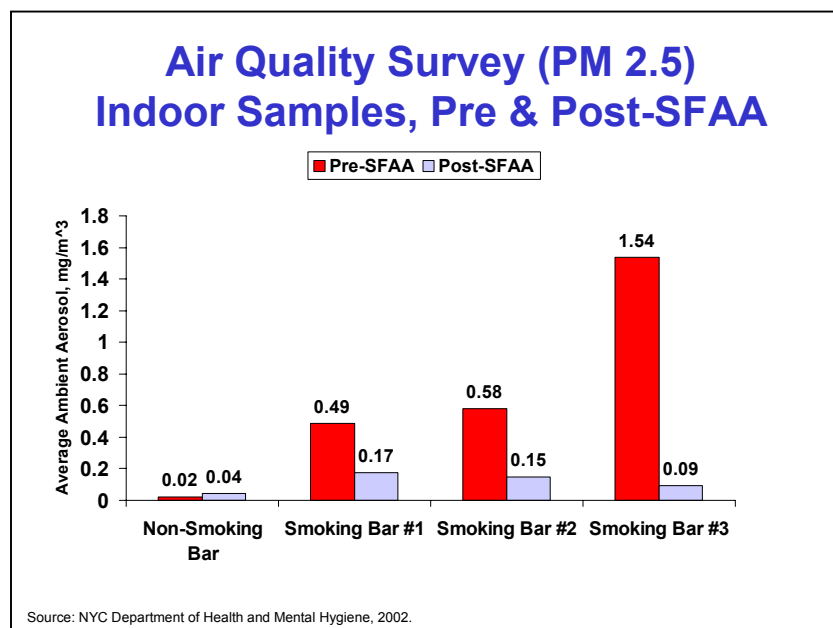
- 16% of respondents to the Zogby poll said they would patronize smoke-free restaurants on a *more* regular basis after passage of the law, and 73% said they would go out to eat just as often as before. Only 11% said they would go to restaurants less as a result of the law.

- 19% of respondents to the Zogby poll said they would patronize bars and nightclubs *more* often after passage of the law, and 65% said they would go out just as often as before. Only 14% said they would go to bars and nightclubs less.
- 23% of those who participated in the Zagat 2004 New York City survey said they would patronize smoke-free restaurants on a *more* regular basis after passage of the law, and 73% said they would go out to eat just as often as before. Only 4% said they would go to restaurants less as a result of the law.

VI. WORKPLACE AIR QUALITY IN A SMOKE-FREE CITY

The high rate of compliance to the Smoke-Free Air Act translates into better air quality in workplaces. The Health Department conducted an air quality survey of various indoor and outdoor locations throughout the City in August 2002, prior to the implementation of the Smoke-Free Air Act. The Department found that the average air pollution levels in bars that permitted smoking were as much as 50 times higher than at the entrance to the Holland Tunnel at rush hour.

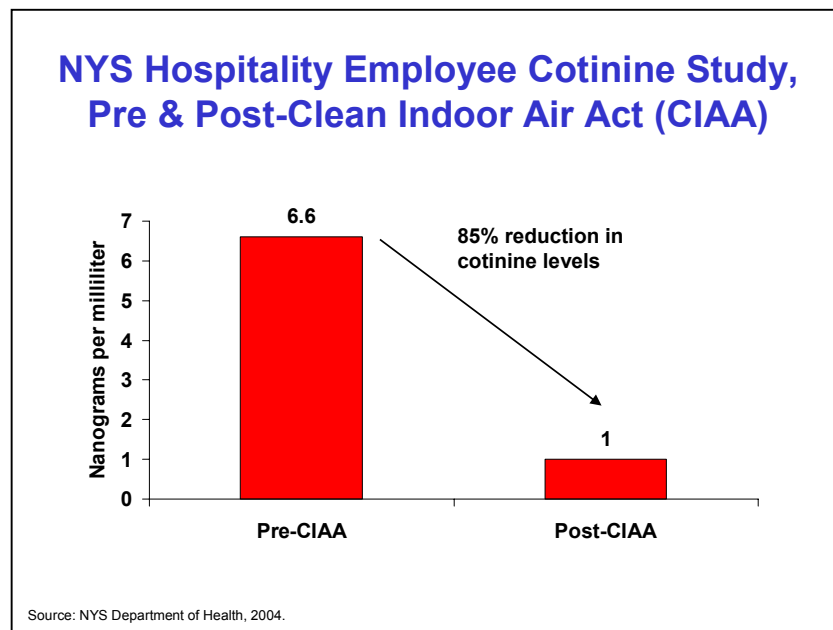
The Department returned to the same locations in May 2003, after the Smoke-Free Air Act went into effect, and documented substantial improvements in air quality. The follow-up samples showed, on average, a six-fold reduction in air pollution levels in establishments that previously allowed smoking.



VII. WORKER PROTECTION IN A SMOKE-FREE CITY

Within a short period after the implementation of the Smoke-Free Air Act, 150,000 fewer adult New Yorkers reported being exposed to second-hand smoke at work.

A New York State Department of Health study confirms the reduction in second-hand smoke exposure at work by documenting a marked decrease in cotinine in New York bar and restaurant workers. Cotinine, a nicotine by-product, is found in people who have inhaled tobacco smoke, and is used to determine nonsmokers' exposure to second-hand smoke. Researchers collected biological samples from nonsmoking bar and restaurant employees during the month before the New York State Clean Indoor Air Act (CIIA) went into effect in July 2003, and again three months later. They found that cotinine levels declined by 85% after the state law went into effect.



VIII. THE STATE OF A SMOKE-FREE CITY

As New York City, home of the world's finest restaurants and most celebrated nightlife, emerges from the difficult economic times of 2001 and 2002, so has its bar and restaurant industry. Economic data confirm that New Yorkers love their bars and restaurants, and so do the millions of tourists that come here every year to enjoy all that the City has to offer. Thanks to the Smoke-Free Air Act, the City's bar and restaurant experience is a safer and healthier one for everyone.