Spanish National Anti-tobacco Law

Country: Spain
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Current Process Stages

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1. Abstract

A proposed tobacco law aims to reduce tobacco consumption as well as eliminate second-hand smoke in public spaces. The law prevents the sale and distribution of tobacco products to minors; prohibits smoking in many public enclosed areas; and eliminates tobacco publicity, promotion or event sponsorship by tobacco related sponsors. The law is expected to reduce the number of current and new smokers, particularly among minors, and to eliminate involuntary passive smoking in many enclosed spaces.

2. Purpose of health policy or idea

3. Characteristics of this policy

Degree of Innovation
- traditional
- innovative

Degree of Controversy
- consensual
- highly controversial

Structural or Systemic Impact
- marginal
- fundamental

Public Visibility
- very low
- very high

Transferability
- strongly system-dependent
- system-neutral

4. Political and economic background
5. Purpose and process analysis

Initiators of idea/main actors

- Government: The government is the initiator of the measure and the one to enact it
- Private Sector or Industry

Stakeholder positions

Stakeholder positions have remained stable since the previous report, and the tobacco industry of course remains as the main opposition force. The central government (moderated through the Ministry of Health) and autonomous community governments are quite supportive of the law, and health officials and the medical community are not surprisingly, extremely supportive of the law. Tobacco companies and those related to the industry oppose the law, and the labor and economic commissions have concerns. The labor commission is concerned that labor unions may oppose the law to ban smoking in the workplace because of a perceived infringement of workers' rights.. The economic commission worries that a decline in the tobacco industry or an increase in tobacco prices (which could follow this law) may lead to inflation or other economic problems. These problems could probably be overcome by eliminating tobacco products from the price index, but the highly inelastic demand for tobacco products points to the necessity of effective programs to help people quit smoking. Owners of establishments that sell tobacco are also opposed to the restrictions imposed by the law and many restaurant, bar and hotel owners are worried at the smoking restrictions will have negative effects on their business. Studies in other countries have shown that restaurant, bar and hotel businesses are not negatively affected by anti-tobacco laws, especially when they are universally implemented, an additional argument for strengthening the law to ban smoking within enclosed establishments of all sizes, not just those greater than 100 square meters.

In general, beyond the few opposing actors, the extremely collaborative effort between different sectors of the central government, individual autonomous governments, and third party experts has helped it gain wide support and minimize opposition. Individual autonomous governments are now working on ways to minimize potential local opposition such as that among labor unions and establishment owners.

Actors and positions

Description of actors and their positions

**Government**
- Central Government/Health Ministry: very supportive
- Regional Governments/ Regional Health Authorities: very supportive
- Economic and Labor Ministries: very supportive

**Private Sector or Industry**
- Tobacco Industry: very supportive

Influences in policy making and legislation

The previous Spanish government wrote a very similar law proposal but did not have the time to take the appropriate
legislative steps to put the proposal into law before the new (socialist) government took over in March 2004. The current government has now begun the legislative process to put the proposal into effect as law and taken it much further in the legislative process. The proposal has been changed minimally from the draft that the previous government wrote, but details are much more defined in this draft, and all changes that have been made have been the consequence of a great deal of collaboration among a wide range of political and medical actors. The draft of the law will be reviewed by Parliament in the upcoming months and if approved by both Congress and Senate, it will take effect as national law with a current projected implementation date of early 2006.

Legislative outcome

pending

A
c tors and influence

Description of actors and their influence

Government

Central Government/Health Ministry

Regional Governments/ Regional Health Authorities

Economic and Labor Ministries

Very strong

Private Sector or Industry

Tobacco Industry

Very strong

Positions and Influences at a glance

Adoption and implementation

Each individual autonomous region will be responsible for ensuring adherence to the law's stipulations once it is established as national law. Local governments have already begun working on implementation strategies as well as
developing strategies to confront potential difficulties or problems.

Successful implementation will depend primarily on local enforcement of the law. The fines issued to those who fail to comply are thought to be substantial enough to ensure compliance, if issued properly and consistently. Local law enforcement will be expected to monitor individual and establishment adherence, and autonomous community governments have a responsibility to the central government to ensure that the law is enforced within their particular autonomy. There will also be a mechanism by which citizens can report infringements directly to local law enforcement as another avenue of vigilance.

Potential obstacles could consist of financial and/or manpower resource shortages that hamper adequate enforcement at the local level.

Monitoring and evaluation

Although formal monitoring and evaluation methodology has not yet been formally discussed, long-term review would most likely be conducted through studies that examine health trends related to tobacco use. Additionally, law enforcement will be able to estimate local compliance levels through statistical measures of local citations and observed infractions.

6. Expected outcome

The proposed law is certainly a first step toward controlling the tobacco problem within Spain, but as many experts argue, it is a fairly weak law in many respects that will hopefully be followed by more ambitious stipulations through amendments or additional laws. The law will most likely effectively reduce the number of minors who are able to obtain tobacco products, and the creation of a smoke-free work place is a strong first step toward elimination of smoking in enclosed public areas. The effectiveness of the law will depend a great deal on local enforcement, which is left up to the individual autonomies and courts. Additional financial or human capital resources have not been formally discussed as part of the implementation but may become an issue in autonomous regions where such resources are already scarce. The monitoring mechanism of the central government to ensure effective enforcement within each autonomy has not yet been specifically defined, but the courts will have to address complaints violations are not appropriately fined. The money collected from fines of infractions of the laws can be used as each autonomy wishes to implement anti-tobacco programs or other uses that will help diminish tobacco use, and the government has recently allocated an additional 37.3 million euros to distribute among the autonomies for use in health preventative health measures including anti-tobacco use.

The law is drastically weakened by its clause that states hotel, restaurant, and bar establishments smaller than 100 square meters do not need to eliminate smoking in enclosed areas nor designate a specific smoke-free space. While the clause was meant to appease establishment owners who are concerned that the new law will negatively affect their business, it significantly weakens the potential effectiveness of the law. Because the majority of such establishments are smaller than 100 square meters, the law’s attempts to reduce smoking in public enclosed areas as a way to minimize second-hand smoke and as a way to discourage active smoking are severely undermined by this clause. The Spanish government is probably looking to avoid a great deal of public and local objection to the law through this particular clause, but if the government truly wishes to decrease and effectively address the tobacco-related health problems it will eventually need to risk strong objection and ban smoking in all public enclosed areas.

Additionally, the failure to discuss an increase in the taxes of tobacco products within Spain is another significant weakness in the current draft. There is substantial research that demonstrates increased prices of tobacco products leads to decreased consumption, especially among youth and other more marginal groups which often tend to be those suffering from more health problems. Spain’s tobacco prices are extremely low in comparison to the rest of Europe and while this is in part related to the fact that Spain’s cost of living tends to be relatively cheaper than other European countries, the prices could be raised to at least the median of European cigarette prices. Spain has long been known to have comparatively low tobacco prices, and because the government’s goal is to decrease tobacco
use, this should be one of the first issues the law addresses. One plausible explanation of why the taxes are not currently discussed in the law is that it would be the Ministry of Finance that would implement such a measure, not the Ministry of Health, and would therefore entail a separate Plan and process to implement such an increase. The Ministry of Finance has not yet had any formal discussions about such an increase, but will probably be one of the first resources of increased government revenue at the first sign of fiscal problems within the economy.

| Cost Efficiency | very low | very high |

While official price or tax increases on tobacco products, have not yet formally been discussed, the current proposed law will certainly reduce long-term costs to the overall system through prevented health problems.

7. References

Sources of Information

- Various newspaper and specialized press articles.

Reform formerly reported in

Tobacco Prevention and Control - National Plan

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