



Office of the County Executive

St. Charles County

Steve Ehlmann
County Executive

TO: The Members of the St. Charles County Council
The Honorable Joe Brazil, Council Chair
The Honorable Joe Cronin
The Honorable Nancy Matheny
The Honorable Paul Wynn
The Honorable Terry Hollander
The Honorable Jerry Daugherty
The Honorable John White
Ruth Miller, County Registrar

FROM: Steve Ehlmann, St. Charles County Executive

DATE: June 14, 2011

RE: Veto of Bill 3726

RECEIVED

JUN 14 2011

ST. CHARLES COUNTY COUNCIL

By this correspondence, pursuant to Section 3.702 of the St. Charles County Home Rule Charter, I am returning to the St. Charles County Council with objections Amended Substitute Bill 3276, an ordinance "ENACTING A NEW CHAPTER OF THE ORDINANCES OF ST. CHARLES COUNTY, MISSOURI RELATING TO THE PROHIBITION OF SMOKING WITH PENALTY PROVISIONS."

In the full enjoyment of the gifts of Heaven and the fruits of superior industry, economy, and virtue, every man is equally entitled to protection by law; but when the laws undertake to add to these natural and just advantages artificial distinctions, to grant titles, gratuities, and exclusive privileges, to make the rich richer and the potent more powerful, the humble members of society – the farmers, mechanics, and laborers – who have neither the time nor the means of securing like favors to themselves, have a right to complain of the injustice of their Government.

President Andrew Jackson, veto message for the bill to re-charter the Bank of the United States

Bill No. 3726 would put before the voters of St. Charles County a smoking ban on all public places, with the exception of the gaming floor of a casino, cigar bars and twenty percent of the

hotel rooms. While the sponsor of the bill put in a great deal of time and effort to meet many of the concerns about the bill, the matter has remained controversial, and barely survived a motion to table on a vote of three to three. On final passage, it garnered four votes and is now on my desk awaiting signature.

I first confronted the issue of second-hand smoke in 1989, while serving in the Missouri House of Representatives. That year, I voted for S.B. 509, the Indoor Clean Air Act, which prohibited smoking in many public places and required setting aside smoking areas in others. While serving in the Senate in 1993, I voted for H.B. 348, which prohibited smoking in schools and day-care facilities. Since that time, many political subdivisions, including St. Charles County, have banned smoking in the workplaces of their employees. Just last year, I signed an Executive Order prohibiting smoking in county-owned vehicles, not merely because passengers breathed second-hand smoke, but because other employees, who used the vehicle the next day, had to smell the cigarette butts left behind. Tobacco smoke is disgusting to the non-smoker, and unhealthy for everyone. I would urge all smokers to be more considerate of non-smokers, and all business owners to ban smoking from the workplace.

Bill No. 3726, if passed by the voters, would allow county government to impose that decision on most business owners, while exempting others. Authority to pass such a bill is derived from Section 192.300 RSMo., which permits the governing body of the county to “make and promulgate orders, ordinances, rules or regulations, respectively, as will tend to enhance the public health and prevent the entrance of infectious, contagious, communicable or dangerous diseases into such county.” This statute definitely allows the county to pass a smoking ban. However, I believe that, when a regulation is passed to improve public health, exceptions to that regulation should be rationally related to the same public health goal. It would be totally irrational to require restaurant inspections, but exempt Italian restaurants. If the purpose of the smoking ban is to protect the health of employees, there is no rational reason to exclude casino floor workers. If tobacco smoke is harmful, there is no reason to exempt cigar bars, while regulating bars that allow cigarette smoking.

I have been a critic of federal bailouts that assist some businesses deemed “too big to fail,” and elements of the stimulus bill which allowed the federal government to pick winners and losers in the national economy. I have been an even bigger critic of Missouri’s Tax Increment Financing (TIF) law, which allows municipal governments to pick winners and losers among competing retail businesses in their jurisdictions, by allowing some to escape taxation while their competitors pay their taxes. Therefore, I cannot sign my name to an ordinance which makes casinos and cigar bars the winners at the expense of non-profit organizations and small businesses that compete against them for the entertainment dollars of individuals that smoke.

Today it is the small business owner and not-for-profit organizations who “have neither the time nor the means of securing like favors to themselves.” I want to give them no occasion to “complain of the injustice of their Government.”

Therefore, under the authority granted to me by section 2.604.1 of the Charter of St. Charles County, I hereby return Bill No. 3726 to the County Council with my objections set out above. If this veto is not overridden, I suspect that discussion of this issue will continue. The deadline for putting a proposal on the ballot in November, 2012, is ninety days prior to the election.

For the foregoing reasons, I hereby veto Bill 3726.



Steve Ehlmann
St. Charles County Executive

cc: Chuck Gross, Director of Administration
Joann Leykam, County Counselor
Donna Vogt, Executive Assistant, County Council