

MN SMOKING BAN: A DANGEROUS CONSTITUTIONAL PRECEDENT

By Tom Emmer
State Representative

I don't smoke. I don't like smoke. But my distaste for the habit doesn't give me cause to have the state manage individual rights. The new junta of democratic legislative leaders have declared a statewide smoking ban as the top priority on their thin agenda for the upcoming legislative session. That baffles me. How property taxes, education reform, health care reform and funding for roads and bridges do not top that list of priorities is in a word, outrageous! Apparently the promises made during the recent campaigns have served the intended purpose and can now be forgotten. A statewide smoking ban in Minnesota is a dangerous constitutional precedent. If the new regime wants the ban to pass it very likely will pass. But we should at least call it what it is as we plummet further into the nanny-state formerly known as Minnesota.

America was founded on principals of freedom and the right of the individual to self-determine. Every citizen has the inalienable right to life, liberty and property; "We find these truths to be self-evident....." I for one believe that "inalienable" means something.

As a "free" society the laws we enact must necessarily be directed towards protection of individual freedoms. The freedom to improve one's self, the freedom to obtain and hold property, the freedom of belief, the freedom of expression, the freedom of association, etc. Our laws must protect the individual's rights within the community. A tension exists, however, between the individual right to self-determine and our bureaucratic predisposition to control everything and everyone. Simply stated, we all want the freedom to make decisions about our personal liberties but some of us also want to make these decisions for our fellow citizens. Why? Is it because we know better? Is it because we believe only the uneducated would disagree with our enlightened position? Are we convinced that we must intervene with laws to save those who cannot or will not understand?

We are all concerned with health. In fact, we are all responsible for making healthy choices. The first law on the DFL legislative agenda is a statewide smoking ban. The real issue is much larger. The real issue is how far we are willing to let government rules erode the very foundation of our freedom? Enacting social engineering into law is dangerous. Smoking sits squarely within the crosshairs of our society's all-knowing social engineers, well-intentioned but misguided folks who feel the need to help us because we can't help ourselves.

What will stop the regulatory engineers from focusing their sights on the freedom to consume certain foods they consider “unhealthy foods”? What will stop them from outlawing certain expression like no one should be forced to sit in a public place next to someone spouting profanity (or heaven forbid, praying aloud)? What will stop them from determining who can own and hold certain property like a farmer’s right to decide how and what to farm? What will stop them from legislating who we can associate with by restricting procreation based on genetics? Ask yourself, what will stop them from legislating our religious freedoms? If they decide that Islam promotes violence and mistreatment of women and therefore must not be tolerated, will that be imposed on us from above as well? What are the limits on our growing “nanny-state”?

I expect those who want to dictate our freedoms will cry out that the smoking ban is altogether different from the examples offered. Second hand smoke obviously affects workers in bars and restaurants. Of course no one wants to suggest that employment is voluntary. Evidence of the negative health impact of secondhand smoke has been presented as indisputable. If this is such an indisputable truth, then why does the federal government rate secondhand smoke below cell phones as a carcinogen? Why have we, as a responsible society not simply outlawed tobacco in all its forms? If second hand smoke is as dangerous as the social engineers claim, then why are we willing to allow children in private homes to continue to be exposed to this scourge?

I realize that this train may already be out of the station and that it seems to be picking up steam as we roll down the tracks toward the upcoming legislative session. I only ask that before we set this course we consider the impact on not only the many businesses that will be hurt, but also the dangerous precedent we set for the future of liberty.