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## Beverly Hills Restaurant Patrons Puff On As New Ban on Smoking Goes Unenforced

By KATHLEEN A. HUGHES

Staff Reporter of THE WALL STREET JOURNAL

BEVERLY HILLS, Calif.—Some fancy restaurants here have quietly created large smoking sections despite the city's recent ban on smoking in restaurants and other public places.

And since the Beverly Hills police aren't patrolling the posh restaurants, small battles are breaking out between smoking and nonsmoking diners.

A similar fracas could be repeated in the dozens of other cities that are apparently considering similar smoking bans. The new law has been heavily publicized since it was adopted in March, and Beverly Hills has received more than 75 requests for information from city halls across the country. But the city apparently isn't aware of the new smoking sections. "So far the ordinance has been working very smoothly," says Fred Cunningham, the city spokesman.

Restaurateurs don't agree. They say business is down by about 30% since the law took effect, in April. A newly formed group, the Beverly Hills Restaurant Association, has sued the city in state court claiming, among other things, that the law unfairly exempts hotel restaurants. It seeks repeal of the law.

### One Big Bar

Meanwhile, some enterprising restaurateurs claim to have discovered a loophole: The ordinance allows smoking in bars and cocktail lounges. So some have extended their "bar areas" to include extremely large dining areas and, in some cases, the entire restaurant. Several still have ashtrays on all dining tables.

"People know the law is open-ended and vague, and the law is being manipulated to the best of the restaurateurs' ability to stay above water," says Christopher Niklas, the manager of The Bistro Garden, one of the fanciest restaurants. "People feel comfortable smoking here," he adds.

Rudy Cole, executive director of the new restaurant association, says that "what's really happening is that there's little or no enforcement of the ordinance. There are plenty of places where people can eat and smoke in Beverly Hills." Mr. Cole says the restaurant association favors a law that provides for smoking and non-smoking dining areas.

Under the new law, the restaurants are required only to post no-smoking signs; they aren't required to enforce the law. That's up to the city, and the Beverly Hills police are only responding to complaints. Mr. Cunningham, the city spokesman, says so far the police have received 30 com-

plaints and issued one citation. A smoker can be fined up to \$500.

But few restaurants tell smokers that. Calls to several restaurants inquiring about a smoking section elicited the following responses:

—"It's up to you if you want to smoke. We're not telling people not to smoke."

—"You can smoke. No one has gotten arrested. There has to be a court case."

—"Smoking isn't a problem."

Restaurant owners have taken different approaches in creating smoking sections, partly due to different floor plans. Here are just a few innovations:

—La Famiglia: Joe Patti, the owner, says the restaurant allows smoking everywhere since the bar is in the middle of the relatively small dining room. "According to the law, it's a wide-open bar," says Mr. Patti. "The ordinance doesn't make sense," he adds. On many evenings, he says, people are smoking at more than half the tables.

—The Bistro Garden: Mr. Niklas, the manager, says the restaurant allows smok-

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allows smoking in bars. So some restaurants have extended their 'bar areas' to include extremely large dining areas and even the entire restaurant.

ing on the grounds that the main dining area has doors that open to a patio. The entire restaurant, he says, is dining "al fresco." Patio smoking isn't mentioned in the ordinance but a city attorney says smoking would be acceptable on a patio.

—Tony Roma's: The restaurant is divided into two rooms, and a no-smoking sign is posted over the door to one of them. In the second room, which seats 62 people and includes a bar, diners are told they can smoke. The rooms are separated by a hallway but the restrooms are in the smokers' dining room. A manager declined to comment.

—Kate Mantilini: Mark Weinstein, the general manager of the new architectural extravaganza, says diners are allowed to smoke at the first four dining tables and the first three dining booths. The bar runs the length of the long open restaurant. Mr. Weinstein said he doesn't know why those tables were chosen as the smoking area. "Our attorneys found out how you can de-

fine the bar area and that's what they came up with," he says.

Naturally, all this has bred resentment among restaurant owners who claim they are enforcing the law by telling patrons they can't smoke. "I have chosen to abide by the law 100% and to fight at every turn to change it," says Bob Spivak, the owner of The Grill. "But there are a dozen other restaurants here where my customers can go to smoke. It's frustrating."

The new smoking sections are also confusing to nonsmokers who expect Beverly Hills restaurants to be smoke-free after a blitz of media coverage about the ordinance. Faced with the laissez-faire attitude of both restaurateurs and the police, some nonsmokers have become militant.

Steve Grant, the general manager of Prego, another upscale restaurant, says at least five to six diners light cigarettes each night. "Nonsmokers run over and start screaming at them. It's bad for the morale of the Beverly Hills diner," says Mr. Grant. "There's a lot of tension between customers." Mr. Grant, like many other restaurateurs, says when there's a confrontation he tells the smoker about the law.

Both La Famiglia and Prego say diners sometimes refuse to pay for dinner because someone in the restaurant was smoking.

### Smoked Out

One annoyed nonsmoker was Victor Costello, a vice president of sales for Ballanda Corp. in Los Angeles who lunched with his wife and eight-month old child recently at Pastel. The family unwittingly sat at one of the nine tables in the "bar area" and the diners at the next table smoked.

"When I saw the smoker I felt we should leave," said Mr. Costello, who took his child outside when the other diners started to smoke. "I thought there wasn't smoking in Beverly Hills anymore," said his wife, Helen.

Smokers, of course, are often delighted to discover they can smoke in a Beverly Hills restaurant. When Dan Deibel, a Los Angeles builder and a smoker, was dining with friends at La Famiglia, a waiter told one of the diners he could smoke at the table. So Mr. Deibel ordered a pack of Marlboro Lights from the restaurant and smoked, too.

"I thought it was funny that the restaurant was selling the cigarettes," says Mr. Deibel. "One person lit up and no one said anything, and by the end of the evening we were all smoking. Until I get stopped, I'll continue to eat in Beverly Hills."

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