



# Lighting up ... or butting out?

**Winds of change could soon make it harder to light up in Switzerland, yet the Alpine nation still lags behind some of its European counterparts with regard to its non-smoking laws.**

By Julia Hancock | Switzerland's streets are spotless and its cars are usually perfectly parked within the designated lines. But when it comes to smoking, Switzerland has, so far, held on tighter to its freedom to indulge in what some would call an untidy habit, versus many of its neighbours.

In October, the Swiss parliament approved what many have defined as merely compromise legislation to prohibit smoking in most indoor venues, rather than the sweeping ban that exists in many neighbouring countries. That legislation, however, due to the usual legal process, is not expected to be enacted before 2010.

## On the table

The new Swiss legislation, were it to come into force as proposed, would outlaw smoking in public areas including offices, schools, hospitals, shopping malls and cinemas. Smoking would still, however, be allowed in separate designated and well-ventilated areas in restaurants.

Furthermore, the government also excluded restaurants and bars of less than 80 square metres from the ban, as long as they are well ventilated, clearly marked as smoking establishments and have received local permission from the appropriate cantonal authority.

"The government passed on the opportunity to protect the Swiss population against passive smoking with a uniform and effective federal solution. The regulatory exceptions in the federal law prevent a real protection of workers in catering

and introduce competitive distortions and more bureaucracy," Cornelis Kooijman, head of the tobacco prevention programme at the Swiss Lung Association, told *Swiss News*.

## Playing by its own rules

The legislation passed was a far cry from Ireland's bold and groundbreaking move in 2004 to ban smoking in all public places. Many other European countries, including Norway and Italy, have since followed suit.

"Our goal was to get a law close to Ireland's but pressure from the hospitality sector was too powerful," Thomas Beutler from the Swiss Association for the Prevention of Smoking told *Swiss News*, explaining the catering industry is afraid of losing too many clients if smoking is banned entirely.

The association representing Switzerland's hospitality industry, GastroSuisse, instead called the result a "proper compromise" to a difficult situation.

"The parliament... passed legislation after long and difficult discussions which regularly included the participation of GastroSuisse. After much debate a national compromise was found," Brigitte Meier-Schmid, spokeswoman for GastroSuisse said to *Swiss News*.

"For the catering business this legislation is, however, a limitation," she said, adding that GastroSuisse hopes the cantons will take catering businesses into consideration when they implement their laws on passive smoking.

The Swiss Federal Office for Public Health described the legislation against

passive smoke to *Swiss News* as: "the result of a consensus [that] is a considerable progress in comparison to the existing situation".

It also specifically provides interested cantons with the flexibility to introduce stricter "... limitation[s] than those introduced at a federal level", Swiss Federal Office for Public Health spokeswoman Karine Begey added.

## Next up

The Swiss Lung Association, however, took its fight against passive smoking one step further than the legislation, and launched a people's initiative last December to introduce a blanket ban that would block smoking from all public places – with no exclusions – across the country.

A people's initiative, a key component of Switzerland's unique form of direct democracy, is viewed as a political accelerator that puts the citizens in control of certain legislation. The proposals initiated may be used to amend the constitution, introduce a new law, repeal or amend a law.

The Swiss Lung Association now has 18 months to collect 100,000 signatures in favour of stricter legislation. If and when this is achieved, the new legislation would then be sent back to parliament. If parliament still can't reach a satisfactory agreement that reflects the people's initiative, a vote will then be proposed to the citizens. (The current legislation, however, does not have to wait for the initiative's outcome before it is enacted.)

The majority of initiatives often eventually fall at the hurdle of the popular

vote. Yet despite this, they have also regularly helped to shape policy making. Initiatives, even those that fail to achieve their initial goals, often lead to lively debate. Many times, the text from initiatives has been taken into account when writing and passing new legislation.

#### Word on the street

The topic remains inflammatory, with many citizens taking clear sides.

Madeleine Gerstel, a 63-year-old smoker from Canton Zurich is irritated that her choices should be limited.

“The rules really bother me. It is terrible to make laws against smokers – why not make them against fat people who are also unhealthy,” she lashed out, adding she has been smoking since she was 20. “I do not think a government should impose such things.”

Paulien Moser, a Dutch-born mother of two young children, said she would like to see smoking banned from all public places.

“I want a total ban. Too many loopholes will not work,” she told *Swiss News*.

In her opinion, she added, it’s hard to dine out in restaurants in Switzerland and fully protect her children from passive smoke.

#### Patchwork solution

The Swiss Association for the Prevention of Smoking said that in 2007, some 29 per cent of Swiss residents were smokers. The Swiss Federal Office for Public Health adds that tobacco is responsible for some 8,000 premature deaths a year, amounting to more than 20 deaths per day.

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Many Swiss bars have already banned smoking

But like many things in Switzerland, the real situation on the ground is as varied as the Alpine country's cultural mix. The fact that Switzerland is a confederation also means it is home to a mixture of regional laws.

While the national government chose to take the road towards a compromise law and veer away from more stringent legislation, the legislation specifically leaves the door open for individual cantons to introduce stricter laws.

Italian-speaking Canton Ticino, for example, has banned smoking in all pub-

lic areas since April 2007.

An effort by the local government in French-speaking Canton Geneva to stub out smoking in public areas was recently dealt a temporary blow when the federal courts reversed the local smoking ban. The court annulled the ruling by the Geneva cantonal government on the grounds that the legal basis for the ban was faulty. The court said the law should have first been adopted by the cantonal parliament before the government imposed the ban.

The annulment will only be a tempo-

rary block, though. Geneva, like many of her sister cantons, will continue along an anti-smoking trend. Cantons Zurich and Basel have also recently voted in favour of more restrictive smoking regulations.

By the end of 2008, the cantons that had introduced or were in the process of introducing a ban on smoking in public places were in the clear majority.

So, if you are determined to light up while you digest your dinner, Cantons Glarus or Schwyz may be your best options – for now, at least.