

Restaurant Employment before and after the New York City Smoke-Free Air Act

Andrew Hyland and K. Michael Cummings

The purpose of this study was to observe trends in the number of restaurants and restaurant employees two years before and two years after the New York City Smoke-Free Air Act took effect in April, 1995. Between April 1993 and April 1997, New York City added 19,347 new restaurant jobs (18% increase) while the rest of the state outside the immediate metropolitan area added 7,423 new jobs (5% increase). The rate of growth in the number of restaurants was comparable among New York City, neighboring counties, and the rest of the state. The data suggest that the New York City Smoke-Free Air Act did not result in job losses for the city's restaurant industry.

Key words: *employment, policy, smoking*

ON APRIL 10, 1995, New York City's Smoke-Free Air Act took effect.¹ Details about the provisions of the law are presented earlier in this issue. (See p. 14, "Analysis of Taxable Sales Receipts: Was the New York City Smoke-Free Air Act Bad for Restaurant Business?" by Hyland, Cummings, and Nauenberg, this issue.) Table 1 provides a summary of the various restaurant smoking regulations in the state of New York that were in effect between 1993 and 1997.

Opponents of smoke-free restaurant laws claim such laws adversely impact the local restaurant industry, resulting in the loss of taxable sales and jobs.²⁻⁶ Studies examining aggregate taxable restaurant sales consistently indicate that taxable restaurant sales are independent of the passage of smoke-free legislation;⁷⁻¹² however, there is little published literature examining changes in restaurant employment. The goal of this study was to examine trends in the number of restaurants and restaurant employees before and after the New York City smoke-free law went into effect in New York City, comparing those figures with three surrounding counties and the rest of the state.

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Table 1

Summary of smoke-free restaurant laws in New York City, Suffolk and Westchester counties, and the rest of New York State

Location*	Effective date	Restaurants†
New York State	January 1, 1990	A nonsmoking section up to 70% of the indoor seating capacity is required for restaurants with 50 or more seats in the dining area
Suffolk County	January 1, 1995	Smoking is prohibited in the dining areas of all restaurants
New York City	April 15, 1995	Smoking is prohibited in the dining areas of all restaurants seating more than 35 people; restaurants with seating for 35 or fewer people are exempt
Westchester County	July 1, 1996	Smoking is prohibited in the dining areas of all restaurants

* The state law serves as a minimum provision and applies to all counties in the state except those that have passed stronger regulations (i.e., Suffolk, New York City, and Westchester).

† Bars and bar areas in restaurants are generally exempt from these regulations.

Methods

The vast majority of businesses in the state are required to submit quarterly reports to the New York State Department of Labor (NYSDOL) for the purposes of determining unemployment insurance premiums. In the quarterly report, employers are required to state the number of full-time and part-time employees who worked or received pay for each of the three months in the quarter. Data are reported by county and by Specific Industry Code (SIC). For the purposes of this article, data were obtained for SIC code 58.12—eating places. SIC codes are self-reported on business owners’ income tax returns and are linked to the unemployment compensation report by the Federal identification number. Employer reporting liability varies by type of business. For general business employers, a business is required to file the quarterly report if its payroll was at least \$300 in a given quarter. Some classes of employment are excluded from consideration under unemployment compensation law; however, they amount to a small fraction of the total work force. Examples of excluded employment are family children under 21, elected officials, and babysitters under the age of 18. Part-time and seasonal employees are covered under the unemployment compensation law unless otherwise expressly excluded (for example, wages paid out in a given quarter for a business that were less than \$300).

Data on the number of restaurants (annually) and restaurant employees (monthly) were obtained from NYSDOL from April 1993 to April 1997. The number of restaurants in a given year is the total number of restaurants that reported information during that year. Data were analyzed for the five boroughs of New York City (Manhattan, Bronx, Richmond, Kings, and Queens), three nearby counties (Nassau, Westchester, and Suffolk), and the rest of the state.

Comparisons in county-specific changes in the number of restaurants and restaurant employment are examined by comparing the absolute and relative change for the five counties of New York City; Suffolk, Westchester, and Nassau counties; and the rest of the state from April 1993 to April 1997. Population data by county also are presented over time to help explain observed employment changes because places that gain population also are likely to gain restaurant employees as they are needed to service the larger population demands regardless of other factors. Population data were obtained from the Department of the Census.¹³

Results

To determine trends in the number of restaurants and restaurant employment, changes were tracked for each of the five New York City counties, as well as for two bordering counties, one nearby county, and the rest of the state from 1993 to 1997 (data for

restaurant employment are obtained from April of each year and data for the number of restaurants are obtained annually). These results are presented in Table 2. New York City gained 15,292 (0.2%) residents between 1993 and 1997. Manhattan gained 41,173 (2.8%) residents while Brooklyn lost 44,998 (2.0%). The three nearby counties of Nassau, Suffolk, and Westchester also had modest population gains (1.2% for all three counties combined). The rest of the state lost 54,653 (0.7%) people.

New York City and the rest of the state demonstrated increases in the numbers of restaurants and restaurant employment between 1993 and 1997. The growth in the number of restaurants was comparable between New York City and the rest of the state; however, restaurant employment growth in New York City was more than three times that of the rest of the state (17.6% for New York City and 4.6% for the rest of the state), and each borough experienced restaurant job growth during this period. In terms of the number of restaurant jobs gained, New York City added 19,347 jobs (led by Manhattan with an additional 13,137 jobs), and the rest of the state added 7,423 new jobs. The only county that showed a decrease in either category was Brooklyn, with a 2.9 percent decrease in the number of restaurants from 1993 to 1997; however, Brooklyn's population also decreased by 2.0 percent during this period. The three nearby counties had data similar to the statewide figures.

Discussion

These data indicate that New York City and the rest of the state have experienced growth in the restaurant sector of their economies between 1993 and 1997. However, restaurant job growth in New York City has far outpaced that of nearby counties and the rest of the state.

These results are consistent with the conclusions from recent studies that examined the impact of the New York City Smoke-Free Air Act on the city's restaurant business and found no adverse effect. Aggregate taxable restaurant sales data have increased in New York City while they have decreased for the rest of the state. (See p. 14, "Analysis of Taxable Sales Receipts: Was New York City's Smoke-Free Air Act Bad for Restaurant Business?" by Hyland, Cummings, and Nauenberg, this issue.) The vast majority

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of New York City area consumers did not alter their dining out patterns after the law took effect.¹⁴ (See p. 28, "Consumer Response to the New York City Smoke-Free Air Act," by Hyland and Cummings, this issue.) Implementation of a smoke-free restaurant policy after the law took effect could not be attributed to restaurateurs' self-reported change in business. (See p. 37, "Restaurateur Reports of the Economic Impact of the New York City Smoke-Free Air Act," by Hyland and Cummings, this issue.) Furthermore, compliance with the New York City law also appears to be very high; therefore, the lack of finding a detrimental effect of the smoke-free law is unlikely to be due to a disregard for the law. (See p. 43, "Compliance with the New York City Smoke-free Air Act," by Hyland, Cummings, and Wilson, this issue.) Results from New York City are consistent with the findings from other published studies examining aggregate taxable restaurant sales receipts in dozens of communities in California, Colorado, Texas, Arizona, and Massachusetts. (See p. 53, "The Economic Effect of Smoke-Free Restaurant Policies on Restaurant Business in Massachusetts," by Bartosch and Pope, this issue.)⁷⁻¹²

The results presented in this article differ from those reported in an unpublished manuscript prepared in April 1996 by the private consulting firm InContext, Inc. for the Empire State Restaurant and Tavern Association.³ This report used data from the Dun & Bradstreet On-Line Business Database. The authors claim that New York City lost 2,779 restaurant jobs (4.0% decrease) between 1993 and 1996 while nearby jurisdictions gained 1,937 restaurant jobs (5.0% increase). However, a closer examination of the report indicates that the data actually cover the period of March 1993 to March 1995—a period before the New York City smoke-free law took effect in April 1995. In other words, the job losses attributed to the

Table 2
 Number of restaurants and restaurant employees in New York City, three neighboring counties, and the rest of New York State, 1993-1997

Location	Population*			Number of restaurants			Number of restaurant employees		
	1993	1997	Absolute change Percent change	1993	1997	Absolute change Percent change	1993	1997	Absolute change Percent change
Manhattan	1,495,047	1,536,220	41,173 2.8	4,879	5,364	485 9.9	67,796	80,933	13,137 19.4
Bronx	1,195,613	1,187,984	-7,629 -0.6	801	823	22 2.7	6,838	6,905	67 1.0
Brooklyn	2,285,382	2,240,384	-44,998 -2.0	1,750	1,700	-50 -2.9	12,465	13,738	1,273 10.2
Richmond	394,236	402,372	8,136 2.1	359	386	27 7.5	3,553	4,477	924 26.0
Queens	1,957,066	1,975,676	18,610 1.0	1,850	1,972	122 6.6	19,103	23,049	3,946 20.7
New York City combined	7,327,344	7,342,636	15,292 0.2	9,639	10,245	606 6.3	109,755	129,102	19,347 17.6
Nassau	1,296,927	1,303,686	6,759 0.5	2,123	2,129	6 0.3	25,679	27,124	1,445 5.6
Westchester	884,437	896,221	11,784 1.3	1,341	1,389	48 3.6	21,697	22,988	1,291 6.0
Suffolk	1,339,874	1,362,616	22,742 1.7	1,976	2,032	56 2.8	14,431	14,938	507 3.5
Rest of New York State	7,288,644	7,233,991	-54,653 -0.7	11,668	12,318	650 5.6	160,735	168,158	7,423 4.6

*Data are obtained from *Estimates of the Population of Counties: Annual Time Series Data*. Population Estimates Program, U.S. Bureau of the Census.

law came before the law took effect. Furthermore, their data indicate that four of the five New York City boroughs experienced decreases in restaurant employment between 1993 and 1996. It should be noted that the periods of analysis differ between these two studies; however, when the data presented in this article are analyzed over the same period as the InContext study, similar conclusions are reached.

Data from this study contrast sharply with these findings. According to the NYSDOL statistics, New York City has gained 19,347 (18%) restaurant jobs between April 1993 and April 1997; all five boroughs have increased restaurant employment. New York City has accounted for two-thirds of the statewide restaurant job growth. Furthermore, data from nearby Westchester, Suffolk, and Nassau counties indicate restaurant job growth similar to that found in the rest of the state but far below that found in New York City. This study and the InContext study used different data sources to measure restaurant employment and this may be one source for the discrepancies found. As noted previously, the data used in the InContext, Inc. study were used incorrectly to assess the impact of New York City's smoke-free restaurant law, and the data collection methodology was not specified in the report. Data from this study come from official government statistics from the NYSDOL. Virtually all restaurants with paid full-time, part-time, or seasonal employees are required to submit employment information to this agency for the purpose of unemployment compensation insurance; therefore, the restaurants included in the NYSDOL files are a nearly complete representation of the universe of all restaurants in the state. Firms that do not supply this information are fined; therefore, it is reasonable to conclude that reporting compliance is high among those firms required to file.

Changes in the number of restaurants in New York City, neighboring counties, and the rest of the state have been relatively comparable before and after New York City's smoke-free restaurant law took effect, even after adjusting for changes in population over time. However, when restaurant employee job growth is considered, New York City's job growth rate is about triple that of neighboring localities and the rest of the state. Restaurant job growth in the Bronx lagged behind that in the rest of the state. Reasons for this are unclear; however, a migration of diners to bordering Westchester County is unlikely to be

the explanation because Westchester has a smoke-free restaurant law in force and Westchester's restaurant job growth rate was only slightly higher than the job growth rate in the Bronx when changes in population are accounted.

This study is cross-sectional; therefore, the observed employment gains in New York City cannot be directly attributed to the smoke-free restaurant law. For example, some New York City politicians claim that the surge in business is due to an improved city image resulting from a 30 percent drop in crime.¹⁵ The data are reported on an aggregate level so it is impossible to determine trends in subsets of restaurants, though some argue that it is the overall trend that is of ultimate interest.¹⁶ Also, data on the number of restaurants may reflect a high turnover rate instead of genuinely high levels of establishments; however, recent data from the ZagatSurvey show that restaurant openings have exceeded restaurant closings in 1995, 1996, and 1997 in New York City.¹⁷ In addition, direct comparisons between New York City and nearby counties or the rest of the state are not ideal. Nonetheless, regional trends that impact New York City are also likely to affect neighboring counties and the data collection procedures are uniform across all counties in the state and over time, which increases the reliability of comparisons made.

In summary, these results do not support the claim that the New York City smoke-free restaurant law has resulted in fewer restaurant employees. On the contrary, restaurant job growth exists both in New York City and the rest of the state, with the majority of job growth in the state occurring in New York City since 1993. These data are consistent with other data from New York City and throughout the nation⁷⁻¹² that suggest smoke-free restaurant laws do not cause adverse economic outcomes for local restaurant industries.

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