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Restaurateur has help in fight with smoking bylaw

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required signage prohibiting smoking, for a short time after it came into effect in June 2000. But a 35-per-cent drop in business convinced him obeying the

law would have a profound effect on his bottom line.

With contributions from restaurateurs in York Region, as well as Toronto, Peel, Simcoe, Ottawa and other jurisdictions in which anti-smoking legislation exists, Mr. Riopelle has hired high-pro-

file constitutional lawyer Morris Manning to take his case.

Mr. Manning could not be reached for comment. But in a previous interview, he expressed optimism about the potential for a successful challenge.

Regional lawyers have also refused to

comment on the upcoming case. A regional spokesperson said the municipality will defend its bylaw throughout the initial challenge and whatever appeals may follow.

Meanwhile, a report to the health committee predicts delays in processing some 208 charges currently before the courts while the challenge is heard. The region has retained Paterson, MacDougall, a firm which has successfully fought challenges to anti-smoking legislation in Waterloo.

The report predicts costs for the challenge will be \$25,000 to \$35,000.

Wednesday's court appearance will be held to set dates for further arguments in the case, Mr. Riopelle said.

Between June 1, 2001 and July 31, 2002, more than 400 charges were laid in restaurants, pubs, places of business and other public gathering spots, according to the health department. In many instances, proprietors were charged with more than one infraction.

There have been 48 convictions; 45 instances in which fines were paid before cases went to court; 66 charges withdrawn; 10 guilty pleas and eight instances in which charges were quashed. It is estimated about \$27,250 has been assessed for offenses under the region's no smoking bylaw. Some fines have been as high as \$1,500.

At the same time, most businesses are complying with the bylaw. About 90-per-cent of workplaces were found to be in compliance with the total ban on smoking, while 95-per-cent of restaurants, which are also under a total ban, were found to be complying with the law.

There is also a high level of compliance in pubs, where smoking is allowed in 25-per-cent of the occupiable space, the report concluded.

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