

Smoking ban: still up in the air

By Jane Scott

The band strikes up at Public Hall and the "joints" light up.

You know the rock concert pattern. It's the same refrain from Cleveland to Chicago, Boston to Berkeley. "Roaches" are passed down the rows. It's the scene. Then the lights go down, "cigarettes" glow like a thousand fireflies.

Sure, there's a law against smoking in a public place. Section 7.3102 of the city's codified ordinances. Sometimes a fire marshal steps out on stage and tells you. You could be fined up to \$25 or jailed up to 30 days ever since May 19, 1947.

"But whoever heard of anyone fined for just smoking?" asked an indignant rock fan.

But sparks are flying.

Music Hall has been banned for hard rock groups.

Last Tuesday Gov. James A. Rhodes signed State Sen. M. Morris Jackson's Amended Substitute Bill 96. After Jan. 1, you could be fined \$100 for smoking in a public place seating 50 or more anywhere in Ohio. (This doesn't apply to restaurants or bars).

"Non-smokers have rights, too," said Jackson, D-21.

Next Monday Cleveland's City Council is expected to toughen up its smoke statute. After Monday you could be fined up to \$100 for a first offense, \$250 for a second and \$1,000 for a third. You could also be jailed up to one year for a third offense.

The city law would apply to "any area of indoor assembly used for row seating and having a capacity of 100 or more persons."

That means that Public and Music Hall and the Allen Theater would be affected, but the Agora would not. The Coliseum would come under the state law.

How will this affect rock concerts? Will the new Ohio ordinance be enforced? The city one? Who will enforce it? Who wants to? Is it all a big smoke screen?

Commissioner Frank M. Duman doesn't know the answer. He runs the public halls.

"We're not against kids. I'd say 90 to 95% of them are fine. But smoking is against the law. Marijuana is illegal. However, we don't intend to create a disturbance and test the law," he said.

The fire department has no power to actually arrest anyone, said Lt. Michael Taddeo of the department's Public Assembly Detail. That's up to the police.

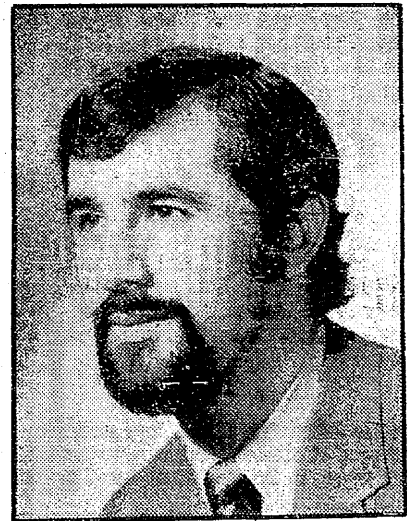
On the other hand, if there were any fire problems, the fire department would be responsible.

"How could you arrest 9,000 kids in one night?" asked Lt. Michael Haney of the Cleveland Police Department.

"If we started to arrest smokers at Public Hall or a theater, we'd have to have one to one security. About 9,000 security guards. Totally impracticable," he said.

"I'd say we'd have to use good judgment, be practical. If there are complaints, we would have to take action. But laws should be enforced with a little bit of temperance, especially when it involves a minor misdemeanor."

Cleveland has done its utmost to see that you won't be cindered, said Duman.



"If all smoking was stopped, rock concerts would still go on," believes Mike Belkin of Belkin Productions.

"We completed almost \$400,000 worth of a wet sprinkling system on the stage in 1969, instead of putting in new elevators. The floors of Public Hall are fire-treated, the carpet in Music Hall is non-combustible. And we've got 20 or more big exhaust fans so big you could crawl through them," said Duman.

The fire department enforced its fire regulations in public buildings until rock hit the scene. But cigarettes aren't the only danger.

"Sometimes fans bring in railroad flares or fuses, the ones you ignite by pulling off a corner or rubbing against something. These are illegal, too. Some fans have ignited firecrackers," said Lt. Taddeo.

All right, here's a hot question: Would rock concerts be booked and succeed here if the smoking law was actually enforced?

No, believes Duman.

"Take the smoke out of rock and the music would be dead. The only reason that many rock fans come is to have a marijuana party and get away with it. Sure, I realize that some groups draw more than others. But many artists are kidding themselves if they think that fans come just to hear them," he said.

One-half of the Tubes' fans wouldn't have bought tickets if there hadn't been a public pot party, he thinks.

The Tubes are a sore point with Duman. In fact, they were the turning point. After fire damage at Music Hall on Nov. 12, 1975, Duman banned them from the hall.

"In fact, in no way is any hard rock group going to play Music Hall again. Too bad, too, because the acoustics are so good," Duman said.

Mayor Ralph J. Perk will spend \$3 million to upgrade Music Hall, including remodeling of dressing rooms and addition of four more.

But will the law department back up the enforcement of the smoking ordinance?

City law director Vincent C. Campagna didn't like to comment until the ordinance was passed.

"But I'm sure we'll enforce the law," he said.

All right, would you go to a rock concert if you knew that you couldn't light up? Would the music be flat without it?



The Plain Dealer/William G. Vorpe

If you took the smoking out of rock concerts the music would be dead, believes Commissioner Frank M. Duman of the Public Hall complex.



You won't see rock groups like the Tubes at Music Hall anymore. Fee Waybill and Re Styles are in this picture.