

RULES, REGULATIONS AND TAXES

How The Government Influences Our Behavior

Column: David Lefkowitz

What role does government have in influencing our behavior?

Should certain behavior be encouraged or discouraged? Most agree that criminal behavior should be discouraged (although some may disagree on what should be deemed criminal). There are those who say that government should stay out of our lives. They may change their minds when their house is on fire and the firemen are at their doorstep. There are also some who say that government should play a substantial role in our lives. They might change their mind, however if a government agent began an unannounced search of their residence. The vast majority of people agree that the government should provide schools, a police force and roads, for example. Those same people agree that certain rules and regulations are required to keep us safe as a society. The true debate begins when we contemplate the extent to which government should seek to affect our behavior, and how it does so.

Light bulbs, as we know them, will never be the same. A 2007 bill, which was passed overwhelmingly by both houses of Congress, and signed into law by George W. Bush, will make incandescent bulbs subject to strict efficiency standards in 2012. The effect will be to help the environment and to make the current 100-watt-bulbs obsolete. Our front porch is already being lit by those curly, new florescent bulbs. Inside our house, we have not made

the transition to the 'new' bulbs. It has been reported that people are stockpiling incandescent bulbs, because they reject the government's plan to change their behavior. We are not stockpiling, but we very well may be the last ones on our block to make the change on our indoor bulbs.

Have you ever wanted to renovate your home and been met with resistance at the permit office? Building codes can be among the most frustrating government interventions we face. It is easy to think, "Mr. Government, I really don't care to have you tell me what I should do with my building." Consider this headline from a national newspaper in late March: "Japan's strict codes saved lives." In the aftermath of the earthquake in Japan, it became clear that the Japanese government's requirements regarding the ability of a building to withstand the force of a hurricane saved many lives. Buildings in San Francisco are subject to similar regulations which will save lives one day. Not all government intervention is negative, it seems.

How about government intervention on subjects that affect us individually? Should the government have a large role in, for instance, reducing obesity? According to a recent national poll, almost 60 percent of respondents said yes. In New York City, an amendment to the health code was passed in December 2006. Under this change in the code, artificial trans fat will be phased out at all NYC restaurants and other food service establishments. Also in 2006, the FDA began requiring food companies to disclose trans fat levels on food labels. Trans fat kills

us at a much higher rate than plain old butter and steak, so the government wants to help us by limiting how much we consume. Those who object to this governmental intervention in our diet say that what we eat is a personal decision. I tend to agree, although I really do not want to pay the medical bills for Mr. Jar-of-mayonnaise-on-every-sandwich.

How do we allow people to make their own decisions, good or bad, without prohibiting all unwise behavior? Sin taxes are one way to do this. Sin taxes are typically added to liquor, cigarettes and other items which society deems dangerous or risky. Some governments favor sin taxes because they generate a large amount of revenue and are usually accepted by the general public because they only affect those who use the products or services. In addition to adding revenue to a government's coffers, sin taxes are also thought to discourage individuals from partaking in dangerous or unhealthy activities without making the use of the products illegal. That seems like a pretty good compromise: "You can smoke 40 cigarettes a day, but it will cost ya."

Critics of sin taxes contend that it unfairly taxes lower economic classes of residents, since in many areas, they are more likely to be consumers of alcohol and tobacco. Critics also argue that the types of behavior affected by sin taxes are strictly personal and of no social consequence, and therefore should not be moderated by the government. Proponents of a sin tax welcome the added revenue and believe

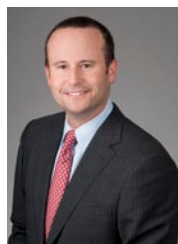
that increasing the cost of a certain behavior will have the inevitable effect of causing some to stop engaging in it. These folks feel that those who engage in behavior that increases social costs (such as taxpayer paid medical bills) should participate in the payment of those costs. They argue that consumers of tobacco and alcohol cause a greater financial burden on society by forcing others to pay for medical treatment of conditions stemming from such consumption. This is especially true in countries like ours, with government funded, or supplemented, healthcare.

The term “sin tax” can create an emotional reaction, because some people do not want to pay those taxes, and other people simply do not want to be told what they’re doing is a sin. Maybe we should institute a “stupid tax?” Whenever I do something foolish, and costly, I tell myself (and my wife) that I am going to have to pay a stupid tax. While backing my car out of a parking spot, I bumped into a pole. Careless. Stupid. Costly. I paid the stupid tax to the body shop. There also is a “lazy tax.” If I wait too long to renew my car registration, I am going to pay the late fee. That’s just another name for “lazy tax,” and another way the government influences my behavior: be on time, or you will pay.

What about people who don’t want to be forced to wear a seatbelt? Or motorcyclists who don’t want to be forced to wear a helmet? Their argument is that the government is forcing them to engage in behavior that they find restrictive. What is the cost of not wearing a helmet or a seatbelt? First, if there is a crash, the victim’s family will be affected. I suppose an individual should be able to decide for himself whether he wants to be hurt and unable to be with his loved ones. The second cost is the medical care for the injuries. If a motorcyclist doesn’t want to wear a helmet, that is absolutely fine with me, and I am

happy for the government to stay out of that issue. I would like, however, that motorcyclist to sign a contract affirming that he will accept zero dollars of government funded medical treatment for his head injuries. In other words, if you want to take a higher risk of hurting yourself, feel free, but don’t ask the rest of us to pay for the expected consequences. You aren’t paying for my car repairs when I am stupid, and I don’t want to pay for your medical bills when you are—how shall we say—stubborn.

The government, which, of course, represents “the people,” is generally expected to provide us with police protection, provide some infrastructure such as bridges and roads and give us access to an education. Sometimes the government is in the business of protecting us from ourselves. Admit it: occasionally we need it. Whether it’s through regulations, rules or taxes, the debate will continue as to the extent to which the government should seek to affect our behavior, and how.



David Lefkowitz is the founder of The Lefkowitz Firm, LLC, which has offices in Atlanta and Athens. The Lefkowitz Firm, LLC, represents individuals and corporations in their claims for legal malpractice (legal negligence) and similar claims such as breach of fiduciary duty, trustee misconduct and executor. The firm also represents attorneys with regard to law firm management issues, including conflicts and bar discipline matters. Mr. Lefkowitz frequently is an invited speaker at continuing legal education seminars on the topics of legal malpractice, ethics and professionalism. For more information, visit the firm’s website at: LefkowitzFirm.com.

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