

Protect Us From Ourselves

By Reg P. Wydeven
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When I was in law school, I thought I knew what worrying was. We didn't have midterms or papers, grades were based entirely on one final exam for each class. If you had one bad day, the semester was shot. I used to think that was stressful, until I had kids.

After our daughter was born, an ultrasound detected a hole in her heart. On that day, I discovered what worrying truly was. When my wife had to give our son his EpiPen shot because he was going into anaphylactic shock from food allergies, she discovered stress.

Before I had kids, I didn't know I could love something so much or worry so much. Because I love and worry so much about my kids, I always want to protect them so they're safe. Because of our son's food allergies, I was thrilled when the federal government passed a law requiring food labels to clearly identify the presence of common allergens. Then after our daughter fractured her skull falling off her swing, I wanted Congress to pass a law that prohibited all playground equipment over 4 inches in height and required all hard surfaces to be covered in bubble wrap.

While I may be a fanatical parent, I'm not alone. There's a new trend in the U.S. coined "nanny governing", where lawmakers try to protect us from danger or encourage healthy behavior. According to critics, these laws that ensure our welfare come at the cost of limiting our freedom.

In an article last year I wrote about one example of nanny governing when a law was passed prohibiting aluminum bats in little league out of fear of injury. This type of paternalistic lawmaking is nothing new. In the 1920s, Prohibition outlawed demon alcohol, in the 1980s laws requiring seatbelts were passed, and most recently laws were passed to ban smoking.

In 1998, the federal Child Online Protection Act was passed, which outlawed commercial Web site operators from allowing children to access material deemed "harmful to minors" by "contemporary community standards." Last week, a federal judge in Philadelphia struck down this anti-pornography law that carried with it a \$50,000 fine and up to six months in prison for violators. The judge agreed with several medical Web sites and the American Civil Liberties Union who opposed the law, claiming it was unconstitutionally vague and limited free speech.

While this law was struck down, others prevailed. In December, New York City was the first of 18 communities nationwide to impose a ban on the use of trans fats in restaurants. In 2001, New York was also the first state to make it illegal for drivers to talk on cell phones without a hands-free set. In February, a state legislator introduced a bill that assesses a \$100 fine for people who listen to MP3 players, talk on cell phones or text-message in New York City crosswalks. Finally, New York's City Council recently called on residents to voluntarily stop using the n-word.

Meanwhile, in California, although a bill was withdrawn that would have made spanking a crime, lawmakers are now discussing banning smoking in cars if there are children in the vehicle.

While I certainly may need protection from my own vices, if they ever pass a law banning Mountain Dew, I'm moving to Russia.