

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2138

2001 SENATE HUMAN SERVICES

SB 2138

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2138

Senate Human Services Committee

Conference Committee

Hearing Date January 17, 2001

Tape Number	Side A	Side B	Meter #
1		X	23.9
1		X	28
Committee Clerk Signature <i>Paul Kaldey chuk</i>			

Minutes:

The hearing on SB 2138 was opened.

DAVID GLATT, Director of the Division of Waste Management with the ND Department of Health, explained and supports the bill. (Written testimony) SENATOR LEE: Will there be other plastics included now. MR. GLATT: We can't guarantee that but multiple layer bottles can be recycled. SENATOR MATHERN: Would there be another option? There may be items that would not qualify. MR. GLATT: Referencing other states and national organizations is what we intend to do. Reality is that ND is such a small market we don't dictate how big companies label their bottles. Our intent is to not hinder recycling but to give it every chance to succeed in the state of ND. SENATOR LEE: How many places recycle? MR. GLATT: The major cities recycle. SENATOR MATHERN: What would be the problem instead of repealing it amend it to conform to national standards. MR. GLATT: There are no national standards. Other states have laws that address similar situations that we have. There would not be anything

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wrong, but I don't know which one that would be. SENATOR POLOVITZ: Have you checked with recycling companies and how they feel? MR. GLATT: Only companies that fill bottles are concerned.

No opposition. The hearing to SB2138 was closed. SENATOR MATHERN asked to look at law to repeal or amend. Discussion. SENATOR MATHERN and Dept will bring amendments. Discussion resumed on SB 2138. Amendments were prepared by Dept of Health. SENATOR MATHERN explained them. SENATOR MATHERN moved to accept the amendments. SENATOR ERBELE seconded it. Roll Call Vote carried 6-0. SENATOR MATHERN moved a DO PASS AS AMENDED. SENATOR KILZER seconded it. Roll Call Vote carried 6-0. SENATOR ERBELE will carry the bill.

Date: 1/23/01

Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2138

Senate HUMAN SERVICES Committee

Subcommittee on \_\_\_\_\_

or

Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Amendments

Motion Made By Sen Mathern Seconded By Senator Erbele

Senators	Yes	No	Senators	Yes	No
Senator Lee, Chairperson	✓		Senator Polovitz	✓	
Senator Kilzer, Vice-Chairperson	✓		Senator Mathern	✓	
Senator Erbele	✓				
Senator Fischer	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:



**REPORT OF STANDING COMMITTEE**

**SB 2138: Human Services Committee (Sen. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2138 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 23-32-01 and 23-32-03 of the North Dakota Century Code, relating to plastic products degradation and labeling; and to repeal sections 23-32-02 and 23-32-04 of the North Dakota Century Code, relating to plastic products degradation and labeling.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 23-32-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**23-32-01. Definitions.** As used in ~~sections 23-32-01 through 23-32-04~~ this chapter:

1. "Degradable" means capable of being reduced to environmentally benign subunits under the action of normal environmental forces, including biodegradation, photodegradation, chemical degradation, or hydrolysis within reasonable time lines specific for waste types and waste management methods.
2. "Department" means the state department of health.
3. ~~"Label" means a molded imprint or raised symbol.~~
4. "Plastic" means any material made of polymeric organic compounds and additives that can be shaped by flow.
5. ~~4.~~ "Plastic bottle" means a plastic container that has a neck that is smaller than the body of the container, accepts a screw-type, snap cap, or other closure, and has a capacity of at least sixteen fluid ounces [453.60 grams] but less than five gallons [18.93 liters].
6. ~~"Rigid plastic container" means any formed or molded container, other than a bottle, intended for single use, composed predominately of plastic resin, and having a relatively inflexible finite shape or form with a capacity of at least eight ounces [226.80 grams] but not more than five gallons [18.93 liters].~~

**SECTION 2. AMENDMENT.** Section 23-32-03 of the North Dakota Century Code is amended and reenacted as follows:

**23-32-03. ~~Plastic bottles and containers~~ Label Penalty Rules.**

1. ~~All plastic bottles and rigid plastic containers sold in this state after December 31, 1991, must have a label indicating the plastic resin used to produce the bottle or container. The numbers and letters used on the label must be at least one half inch [12.7 millimeters] high and must appear on the bottom of the plastic bottle or rigid plastic container. The label must consist of the following numbers, placed inside three triangulated arrows, and letters placed immediately below the three triangulated arrows depending on the plastic resin used. The triangulated~~

~~arrows must be equilateral, formed by three arrows with the apex of each point of the triangle at the midpoint of each arrow, rounded with a short radius. The pointer (arrowhead) of each arrow must be at the midpoint of each side of the triangle with a short gap separating the pointer from the base of the adjacent arrow. The triangle formed by the three arrows curved at their midpoints must depict a clockwise path around the code number. The numbers and letters used must be as follows:~~

- a. ~~1-PETE if the product used is polyethylene terephthalate.~~
  - b. ~~2-HDPE if the product used is high density polyethylene.~~
  - c. ~~3-V if the product used is vinyl.~~
  - d. ~~4-LDPE if the product used is low density polyethylene.~~
  - e. ~~5-PP if the product used is polypropylene.~~
  - f. ~~6-PS if the product used is polystyrene.~~
  - g. ~~7-OTHER if the product used is multilayer.~~
  - h. ~~8-D if the product used is degradable.~~
- ~~2. The department shall maintain a list of the label code contained in this section and shall provide a copy of the list to any person upon request.~~
- ~~3. Any person who violates this section is guilty of an infraction.~~

The department may adopt rules consistent with national or regional standards which relate to the promotion of plastic bottle recycling and the maintenance of safe plastic bottle recycling practices in the state.

**SECTION 3. REPEAL.** Sections 23-32-02 and 23-32-04 of the North Dakota Century Code are repealed."

Renumber accordingly

2001 HOUSE HUMAN SERVICES

SB 2138

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2138

House Human Services Committee

Conference Committee

Hearing Date February 13, 2001

Tape Number	Side A	Side B	Meter #
Tape 1	X		0 to 780
Committee Clerk Signature <i>Courne Easton</i>			

Minutes:

Chairman Price, Vice Chairman Devlin, Rep. Dosch, Rep. Galvin, Rep. Klein, Rep. Pollert, Rep. Porter, Rep. Tieman, Rep. Weiler, Rep. Weisz, Rep. Cleary, Rep. Metcalf, Rep. Niemeier, Rep. Sandvig.

Chairman Price: Open hearing on SB 2138.

David Glatt: Director of the Division of Waste Management, North Dakota Department of Health. (See support of SB 2138 in written testimony.) Due to the progressive and rapidly changing nature of the plastic container manufacturing and recycling markets, Chapter 23-32 has been unable to keep pace with changes in the industry.

Chairman Price: Was it the Senate's idea to not go with the original bill and entirely repeal it, or did you come in on the Senate side and say we need to keep part of the code?

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David Glatt: Originally we asked for the repealing of the entire law. Senator Mathern requested that in case some time in the future we wanted to have some laws related to recycling, he wanted to have an amendment in there so we wouldn't have to come back and ask for that authority.

Vice Chairman Devlin: Did you support this?

David Glatt: Originally we supported repealing the entire law. The amendment that was brought up to us we had no objection to it at all. The concern we have is that we don't have the manpower to police this.

Rep. Galvin: I will move a DO PASS as amended.

Rep. Klein: Second.

Chairman Price: Discussion? The clerk will call the roll on a DO PASS on SB 2138.

11 YEAS, 3 ABSENT

CARRIED BY REP. DOSCH

Date: 2-13-01  
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2138

House Human Services Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Rep Garlin Seconded By Rep Klein

Representatives	Yes	No	Representatives	Yes	No
Rep. Clara Sue Price, Chairman	✓		Rep. Audrey Cleary		
Rep. William Devlin, V, Chairman	✓		Rep. Ralph Metcalf	✓	
Rep. Mark Dosch	✓		Rep. Carol Niemeier		
Rep. Pat Galvin	✓		Rep. Sally Sandvig	✓	
Rep. Frank Klein	✓				
Rep. Chet Pollert	✓				
Rep. Todd Porter					
Rep. Wayne Tieman	✓				
Rep. Dave Weiler	✓				
Rep. Robin Weisz	✓				

Total (Yes) 11 No 0

Absent 3

Floor Assignment Rep Dosch

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
February 13, 2001 3:57 p.m.

**Module No: HR-26-3255**  
**Carrier: Dosch**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2138, as engrossed: Human Services Committee (Rep. Price, Chairman)**  
recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING).  
Engrossed SB 2138 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

SB 2138

**Fifty-seventh  
of North Dakota**

**Legislative Assembly SENATE BILL NO. 2138**

**Introduced by**

L. David Glatt, Director  
Division of Waste Management  
Environmental Health Section  
North Dakota Department of Health

A BILL for an Act to amend Chapter 23-32 of the North Dakota Century Code relating to plastic products degradation and labeling.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 23-32-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**23-32-01. (Effective \_\_\_\_\_ through \_\_\_\_\_) Definitions.** ~~As used in sections 23-32-01 through 23-32-04.~~

1. "Degradable" means capable of being reduced to environmentally benign subunits under the action of normal environmental forces, including biodegradation, photodegradation, chemical degradation, or hydrolysis within reasonable time lines specific for waste types and waste management methods.
2. "Department" means the state department of health.
- ~~3. "Label" means a molded imprint or raised symbol.~~
- ~~4.~~3. "Plastic" means any material made of polymeric organic compounds and additives that can be shaped by flow.
- ~~5~~4. "Plastic bottle" means a plastic container that has a neck that is smaller than the body of the container, accepts a screw-type, snap cap, or other closure, and has a capacity of at least sixteen fluid ounces [453.60 grams] but less than five gallons [18.93 liters].

65. "Rigid plastic container" means any formed or molded container, other than a bottle, intended for single use, composed predominately of plastic resin, and having a relatively inflexible finite shape or form with a capacity of at least eight ounces [226.80 grams] but not more than five gallons [18.93 liters].

**SECTION 2. AMENDMENT.** Section 23-32-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**23-32-02. [Repealed].**

**SECTION 3. AMENDMENT.** Section 23-32-03 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**23-32-03. (Effective through \_\_\_\_\_) Plastic bottles and containers.—Label—Penalty**

4. ~~All plastic bottles and rigid plastic containers sold in this state after December 31, 1991, must have a label indicating the plastic resin used to produce the bottle or container. The numbers and letters used on the label must be at least one-half inch [12.7 millimeters] high and must appear on the bottom of the plastic bottle or rigid plastic container. The label must consist of the following numbers, placed inside three triangulated arrows, and letters placed immediately below the three triangulated arrows depending on the plastic resin used. The triangulated arrows must be equilateral, formed by three arrows with the apex of each point of the triangle at the midpoint of each arrow, rounded with a short radius. The pointer (arrowhead) of each arrow must be at the midpoint of each side of the triangle with a short gap separating the pointer from the base of the adjacent arrow. The triangle formed by the three arrows curved at their midpoints must depict a clockwise path around the code number. The numbers and letters used must be as follows:~~

- a. ~~1—PETE if the product used is polyethylene terephthalate.~~
- b. ~~2—HDPE if the product used is high density polyethylene.~~

- ~~e: 3-V if the product used is vinyl.~~
  - ~~d: 4-LDPE if the product used is low density polyethylene.~~
  - ~~e: 5-PP if the product used is polypropylene.~~
  - ~~f: 6-PS if the product used is polystyrene.~~
  - ~~g: 7-OTHER if the product used is multilayer.~~
  - ~~h: 8-D if the product used is degradable.~~
- ~~2. The department shall maintain a list of the label code contained in this section and shall provide a copy of the list to any person upon request.~~
- ~~3. Any person who violates this section is guilty of an infraction.~~

The department may adopt rules consistent with national or regional standards as they relate to the promotion of plastic bottle recycling and the maintenance of safe plastic bottle recycling practices in the state.

**SECTION 4. AMENDMENT.** Section 23-32-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**23-32-04. [Repealed].**

**Hearing on Senate Bill 2138**  
**Before the Senate Human Services Committee**  
**January 17, 2001**

Chairman Lee and members of the Human Services Committee, my name is David Glatt, I am the Director of the Division of Waste Management with the North Dakota Department of Health. I am here today to express our support for Senate Bill 2138. Specifically, as it relates to the repealing of the North Dakota Century Code 23-32 - Plastic Products Degradation and Labeling. Chapter 23-32 refers in part to the labeling requirements used to identify the plastic resins that may be recycled to produce specific types of bottles and containers.

The Department supports SB2138 for the following reasons:

- > Due to the progressive and rapidly changing nature of the plastic container manufacturing and recycling markets, Chapter 23-32 has been unable to keep pace with changes in the industry. Labeling requirements under the current North Dakota law could eliminate the recycling potential for specific newly designed plastic containers. As an example, last year bottle makers developed multiple layer containers for certain beverages utilizing both PETE (polyethylene terephthalate) and nylon. Although studies conducted by the recycling and bottling industry indicate that these containers can be recycled with other pure "PETE" containers, the North Dakota law would classify multiple layer containers as "Other" which indicates a plastic that is not pure PETE. It is our understanding that Bottles labeled as "Other" are mostly disposed in landfills as there are limited recycling markets for containers under this category.
  
- > Because North Dakota is considered to be a small market as far as plastic recycling is concerned, the state does not have the clout to dictate how plastic labeling should be implemented, and does not have any operating facilities which use recycled bottles for making new bottles or other plastic products. Currently,

most collected plastics are shipped to a secondary processing facility in Minnesota where the plastic is sorted to the individual manufacturer's recommendations. As a result, laws which are contrary to either the manufacturers requirements or the requirements of the state where they are sent could result in these containers being removed from the recycling stream and disposed of in a landfill. Because the recycled plastics are processed in another state, it is our opinion that repealing of NDCC 23-32 would result in no adverse impact to North Dakota recyclers. In fact, it is our opinion that by deferring to a neighboring state's labeling requirements or a national labeling requirement, a recycling market for plastic products in North Dakota would have a better chance of succeeding.

- > National organizations composed of plastic bottle manufacturers, remanufacturers and recycling programs currently promote voluntary consistent labeling of products that can be used across state lines and by all users of plastic products.

Based upon the issues provided in this testimony, the North Dakota Department of Health supports SB 2138 which would result in the repealing of NDCC 23-32.

I thank the committee for the opportunity to provide comment and I can answer any questions you may have of me at this time.

**Hearing on SB 2138**  
**Before the House Human Services Committee**  
**February 13, 2001**  
**Ft. Union Room - 9:00 a.m.**

Chairman Price and members of the Human Services Committee, my name is David Glatt, I am the Director of the Division of Waste Management with the North Dakota Department of Health. I am here today to express our support for SB 2138 and the proposed amendments to the North Dakota Century Code 23-32 - Plastic Products Degradation and Labeling. Chapter 23-32 refers in part to the labeling requirements used to identify the plastic resins in specific types of bottles and containers.

The Department supports SB 2138 for the following reasons:

- > Due to the progressive and rapidly changing nature of the plastic container manufacturing and recycling markets, Chapter 23-32 has been unable to keep pace with changes in the industry. Labeling requirements under the current North Dakota law could eliminate the recycling potential for specific newly designed plastic containers. As an example, last year bottle makers developed multiple layer containers for certain beverages utilizing both PETE (polyethylene terephthalate) and nylon. Although studies conducted by the recycling and bottling industry indicate that these containers can be recycled with other pure "PETE" containers, the North Dakota law would classify multiple layer containers as "Other" which indicates a plastic that is not pure PETE. It is our understanding that Bottles labeled as "Other" are mostly disposed in landfills as there are limited recycling markets for containers under this category.

- > Because North Dakota is considered to be a small market as far as plastic recycling is concerned, the state does not have the clout to dictate how plastic labeling should be implemented, and does not have any operating facilities which use recycled bottles for making new bottles or other plastic products. Currently, most collected plastics are shipped to a secondary processing facility in Minnesota where the plastic is sorted to the individual manufacturer's recommendations. As a result, laws which are contrary to either the manufacturer's requirements or the requirements of the state where they are sent could result in these containers being removed from the recycling stream and disposed of in a landfill. Because the recycled plastics are processed in another state, it is our opinion that repealing of NDCC 23-32 would result in no adverse impact to North Dakota recyclers. In fact, it is our opinion that by deferring to a neighboring state's labeling requirements or a national labeling requirement, a recycling market for plastic products in North Dakota would have a better chance of succeeding.
  
- > National organizations composed of plastic bottle manufacturers, remanufacturers and recycling programs currently promote voluntary consistent labeling of products that can be used across state lines and by all users of plastic products.
  
- > SB 2138 as amended, provides the Department an opportunity to promulgate rules to promote recycling in the future if the need arises.

Based upon the issues provided in this testimony, the North Dakota Department of Health supports SB 2138 as amended.

I thank the committee for the opportunity to provide comment and I can answer any questions you may have of me at this time.