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ROLL NUMBER

DESCRIPTION

2164

2007 SENATE JUDICIARY

SB 2164

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2164**

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: February 6, 2007

Recorder Job Number: 2933

Committee Clerk Signature *Monica L Solberg*

Minutes: Relating to smoke free environments.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following testimony, stating that each side would get an equal 45 min. of testimony time:

Testimony In Support of Bill:

Sen. Ralph Kilzer, Dist. #47 Introduced the bill (meter) Att. #1.

Rep. Joyce Kingsbury, Dist. #16 also introduced bill (meter 5:00) This is another state to create a healthy ND. As has been stated the debate is over. Spoke of second hand smoke danger. The Representative referred to California law. She discussed young people and employment and the cost smoking has on the tax payers.

Sen. Elroy Lindaas, Dist. #20 (meter 6:44) Everyone deserves a smoke free environment and 2nd hand smoke is harmful. He cited a personal case, he watched, of a spouse married to a smoker who died of lung cancer even though she did not smoke.

Rep. Lee Kalder, Dist #20 (meter 8:32) submitted letters – Att. #2a and 2b. Spoke of passing of the last bill. The debating issues of leveling the playing field. You will hear about the financial impact of this bill. I signed on remembering the unanimous vote this bill had in the Senate two years ago and in the house the amendments were added for the exemptions.

Some of the amendments have caused an enforcement issue. Spoke of a personal incident of a hostess in a lobby near a bar. (meter 10:00). We need to resolve the enforcement issues by making all places smoke free.

Dr. Herb Willson, retired physician and member of A.L.A.U.M. (meter 12:43) Att. #3 Many states have passed this type of legislation already.

Dr. James Hughes, Heart and Lung Clinic with St. Alexius Hospital employee, specializing in lung disease. (meter 13:50) Gave testimony – Att. #4

Mr. Jack McDonald, Lobbyist/Attorney representing ND Repertory Assoc. Reviewed the bill (meter 21:31) stating that it add three items to the original bill passed in the last session: Smoke infiltration, Employees ability to sue and the posting of signs.

Sen. Nethings asked about the provisions on page 4 and if it would be contrary to worker's comp current law? (meter 23:53) They discussed if ill you could not file a work comp complaint and file a law suit-would it cause you to waive your rights.

Kathleen Mangskau, citizen impacted by second hand smoke (meter 26:31) Gave Testimony – Att. #5.

Nikki Wolf, St. Alexis Respiratory Therapist (meter 32:25) Gave Testimony – Att. #6 Spoke of a survey they did at the hospital and of personal socializing and the effects the second hand smoke has.

Megan Carter, past restaurant work (meter 34:00) talked about her experiences and the differences in working in a smoking and non smoking facility. – Att. 6a

Debbie Swanson, President of ND Public Health Association, (meter 32:36) Gave testimony – Att. #7.

Kelly Buettener Schmitd, Assist. Professor of Nursing and Proj, Dir. of Healthy Communities International, Minot State University. (meter 36:50) Gave Testimony – Att. #8

Vicki Voldal Rosenau, (meter 43:41) Gave Testimony – Att. #9

Testimony in Opposition of the Bill:

Rep. Dwight Wrangham, Dist 8 Gave his testimony against the bill. (Meter 49:35) – Att. #10

He referred to an opinion petition given to him stating it had over 10,000 names.

Bob Harms, Lobbies for the Hospitality Association, (meter 51:52) Gave testimony – Att. #11

This is about peoples rights-notice that big tobacco is not here today. Also submitted a new paper article banning smoking out doors in MN– Att 11a

Sen. Olafson asked if some “no smoking” movement has been done voluntarily? Yes some have made the changes at the requests of the patrons.

Allan Leir, Bar Owner in Bismarck (meter 1:01:16) Gave testimony-Att. #12 and handed out sign he puts on his bar door allowing smoking – Att. #12a.

Nicki Weissman, Executive Dir. of ND Hospitality Assoc. (meter 1:04:25) Gave Testimony 13a and added additional information-Att. #13b and a Study by dHreasearch – Att. #3c

Rick Laflure, President of Coin Machine Operations (meter 1:10:09) We are not “pro smoking”, we are pro rights. Smokers have rights. We have tried to wok with the industry, and referred to a study. Spoke of the need to educate, Cessation (smokers are not bad people) and nicotine addiction. – Att. #14 He referred to the charts the hospitality Assoc. included in there testimony.

Lowell Thomas, Minot ND – ND Tournament Assoc. (meter 1:10:07) Referred to National Dart Tournament and gave his testimony – Att. #15

Ann Murchie, Jamestown, ND resident and American Veteran (meter 1:22:21) Gave

Testimony – Att. #16

Tom Walser, ND Motor Carrier Assoc. (meter 1:24:12) Referred to the “Truck Stop” portion of the bill. Spoke of the money and efforts after the last legislation the owners put into there

businesses to make the enclosed area. It is an adult only section and people always have the two choices.

Lisa Hixson, Stadium Sports Bar Manager (meter 1:25:45) Gave Testimony – Att. #17

Leo R. Bell, Smoker and a veteran (meter 1:28:45) smokers contribute a large amount of tax dollars, if we can't smoke in any establishments then cut the takes on cigarettes (and alcohol).

Warren Schneider, Tavern Owner in Bottineau (meter 1:30:10) Gave Testimony – Att. #18

Had issues with how to keep this bill in compliance in a rural area with out a police officer in the town.

Sen. Olafson discussed this with him, seeming to understand this issue.

Arlen Shell, Bar Owner (meter 1:30:00) Spoke of the money he spent on his business last

session to be in compliance and two years later, we have this bill – Att. #19

Testimony Neutral to the Bill:

Terry Dwelle, State Health Officer with the ND Dept. of Health (meter 1:1:33) Gave Testimony – Att. 20

Sen. Nething stated that his testimony was not Neutral and he had violated the 45 min per side and he would now give the "Against the Bill" 10 more minuts.

Testimony in Opposition to the bill:

Rep. Dwight Wrangem, Dist #9 (meter 1:38:55) Stated that this bill is not about "health" it is about a persons rights.

Mary Lue Horney, Cashier at Amvets. (meter 1:38:55) Gave her testimony – Att. #21

Senator David Nething, Chairman closed the hearing.

Additional Testimony Submitted:

For the Bill:

David Peske, ND Medical Association – Att. #23

Opposition to the Bill:

Michael McMenemy, Tavern Owner Grand Forks, ND – Att. 22 –

Senator David Nething, Chairman closed the hearing.

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2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2164**

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: February 6, 2007

Recorder Job Number: 3045

Committee Clerk Signature

Maria L. Solby

Minutes: Relating to smoke free environment

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following committee work:

Sen. Nething stated that we have heard of all the evils of smoking. No one on this committee are smokers and spoke of history. We did a good job with this bill last session, my inclination is to not vote for the bill but I would like to hear from all of you.

Sen. Lyson spoke of losing family members to smoking and his deputies training. I have a problem with free enterprise and how much we are going to control it.

Sen. Nelson cited same personal issue also stating that we control businesses all the time. She discussed the enjoyment of being at a bar that is non smoking restaurant. I am death on smoking so I will vote for the bill.

Sen. Fiebiger stated that 80% of people do not smoke. Discussed topics spoken of with the introduction of the bill. I have a hard time allowing this environment available all of the time

Sen. Olafson spoke of his rural district. The free market is working in the urban areas. I represent a rural district where they only have one choice to go. I have a concern with the enforcement issue and non-compliance. A sheriff could be 60 miles away and be called to

enforce this? I will be voting against this bill I am also with Sen. Lyson in the aspect of how much control of government is too much.

Sen. Marcdellais stated that as a former smoker, he made the choice to quit on his own. It is a choice a person has to make for themselves. I also have concerns on the enforcement. This is an issue of education and I do not see the coalition at the schools educating the children.

Sen. Nething stated that there are many occupations that can be dangerous; law enforcement, rodeo, welders and many others. People assume the risk in the association of many things short of shutting down every industry we can not control all risks everywhere. He spoke of the impact on businesses.

Sen. Nelson spoke of the boarder towns will have issues. In the elections this issue was very close but making all establishment no-smoking and it lost by a small amount.

Senator David Nething, Chairman closed the hearing.

Sen. Lyson made the motion to Do NOT Pass and **Sen. Olafson** seconded the motion. The committee voted with great struggle. All members were in favor except for **Sen. Fiebiger** and **Sen. Nelson** and the motion passes 4-2.

Carrier: **Sen. Nething**

Senator David Nething, Chairman closed the hearing.

REPORT OF STANDING COMMITTEE (410)
February 7, 2007 1:17 p.m.

Module No: SR-26-2390
Carrier: Nething
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2164: Judiciary Committee (Sen. Nething, Chairman) recommends DO NOT PASS
(4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2164 was placed on the
Eleventh order on the calendar.

2007 TESTIMONY

SB 2164

Att #1
2-6-07

**SENATOR RALPH KILZER
PRESENTATION ON SENATE BILL 2164
SENATE JUDICIARY COMMITTEE**

2/6/2007

Good morning Mr. Chairman and distinguished members of the Senate Judiciary Committee. I'm Ralph Kilzer, state senator from District 47 which is northwest Bismarck. I'm proud to be one of the sponsors of SB 2164, which would ban smoking in public places. Last session, you may recall, it was also a senate bill, SB 2300, which passed, but with some amendments. This year's bill basically would remove the amendments and exemptions that were added by last session's conference committee.

During the last century that ended seven years ago, the average life expectancy of U.S. citizens increased 30 years. At the beginning of the century, life expectancy was 47 years and at the end of the century in the year 1999 life expectancy was at 77 years. Even in the first seven years of the present century, we have made strides in improving the statistics for life expectancy. The three leading killers at the present time are cancer, heart disease and stroke. The improvement that has been going on recently results from better lifestyle and dietary choices. There are also better diagnostic tools and treatment modalities being developed. However, the biggest obstacle for all three killers is cigarette smoking. Smoking is the number one public health hazard. Dr. Richard Carmona, the Surgeon General, estimates 53,000 people die in our country each year because of second-hand smoke. That is in addition to the hundreds of thousands of primary smokers who die each year because of arterial disease and lung cancer. In North Dakota, second-hand smoke is estimated to cause about 100 deaths each year. That's about the same as the number of traffic fatalities.

Some would say that government has no business regulating my life and my business. Others would say that government doesn't interfere drinking alcohol or consuming excess food. Why should it interfere with smoking? After all, tobacco is a legal product. In public health law, the government does have the obligation to remove toxic products to

avoid public exposure; just as it must occasionally quarantine someone with tuberculosis or some other communicable disease to avoid further spread. The government does have responsibility to protect our environment.

The Surgeon General uses the term 'involuntary exposure' instead of second-hand smoke because the risk of exposure is not diminished by walls, barriers, filters or changes in the ventilation system. All of these are basically useless. They were not included in this bill or in the bill last session.

The reason I brought this bill forward in this session is because of the alarming fact that the Surgeon General revealed in his June 27, 2006 report. He stated simply that in order to not suffer the bad effects of second-hand smoke, facilities must be smoke-free. We in the legislature have an obligation to reduce the risk of this 'involuntary exposure' to tobacco smoke of our citizens. I urge you who are decision makers to review the Surgeon General's report. You don't have to buy the 670 page book because the report is available, along with short summaries, on the web at:

www.surgeongeneral.gov/library/secondhandsmoke/

In 1997 the federal government disallowed smoking in all of their buildings. Several years ago the North Dakota Penitentiary went smoke-free. I read recently that the year 2007 is the year that more than half of our United States citizens will enjoy a smoke-free environment in which to work and play. I urge North Dakota to get on board.

I intend to have a handout of the local research that was done by University of Mary students here in Bismarck who undertook the effort to expose themselves to second-hand smoke and to do urinary studies on the level of cotinine, which is a metabolite and is easily measured.

AH # 2a
2-6-07

Kaldor, Lee A.

From: Rick Arechigo [rick.arechigo@gmail.com]
Sent: Monday, February 05, 2007 8:39 PM
To: Kaldor, Lee A.
Subject: Smoking Ban

To whom it may concern:

My name is Rick Arechigo, owner of the Country Hearth Restaurant in Hillsboro,ND. I'm writing to you to encourage you to pass a bill that would ban smoking in all workplaces including bars. From my understanding of the most recent surveys there is overwhelming support for a total ban. I would hope that you would consider the health and well being of all citizens to be equally important. Not just workers outside of the bar environment. It would also create an equal playing field for all business in North Dakota. When you passed the partial ban it created a very unfair business environment in this state. You weren't concerned when you passed the partial ban if it were fair or not, then why are we concerned now with a total ban being fair. We shouldn't wait for any other state like Minnesota you need to be leaders not followers that's why we elected you to this position in our government. We all know that this ban is going to pass sooner or later why not be a leader. You were elected to be a leader. A prime example is the state of Colorado they have banned smoking everywhere and their heart attack rate dropped by 27% since they started the ban on smoking about a year and half ago. I also understand no legislator ever lost an election for voting for the ban. We all have a right to breathe clean air everywhere. We all know second hand smoke is a health issue.

--

President
C.H. of Hillsboro, Inc
Rick Arechigo
507 West Caledonia Ave
Hillsboro, ND 58045

Att 2 b
2-6-07

Letnes Restaurant Group

PO Box 577 Waite Park, MN 56387 (320) 259-0589 FAX (320) 259-6070

January 5, 2007

RE: North Dakota's No Smoking Law

Dear North Dakota Legislator:

Thank you for taking the time to read my letter. I am CEO and owner of the Grizzly's Grill N' Saloon chain of restaurants. We are a small restaurant company that operates 14 Grizzly's Restaurants, five of which are located in various cities in North Dakota. We are headquartered in St. Cloud, MN but have many North Dakota ties. I grew up on a farm near Hillsboro and graduated from NDSU. Our restaurant sales are derived from both food and alcohol sales. This letter concerns the no smoking law that was voted in and took effect about 2 years ago. Since the law exempted numerous establishments (bars, clubs, bowling alleys, etc.) from going smoke free while others, such as Grizzly's because of our restaurant layout (which is cost ineffective to change) or our food to liquor sales ratio, were required to go smoke free, it was a financial disaster for us and a financial windfall for others. Here are some facts:

Alcohol sales at our Grizzly's in Fargo dropped 33% the very week after the smoking law took effect. We also lost 20% in incremental food sales. Obviously, smokers left for other bars where they could smoke. In Fargo, alcohol sales for 2005 were down 29.7% from 2004. 2006 sales saw a 2.2% drop from 2005. Alcohol sales never recovered. Grand Forks alcohol sales dropped 8% in 2005 and 15.3% in 2006. Bismarck alcohol sales dropped 22.3% in 2005 and 5.9% in 2006. Because of this loss of drinking customers, food sales in Fargo dropped 11.6%, Grand Forks dropped 17.9% and Bismarck dropped 14.9% over the two year period after the law went into effect. On the bright side, Jamestown's alcohol and food sales stayed virtually the same. All in all, the smoking law has been devastating to our ability to run profitable restaurants and it's simply not fair.

I believe the spirit of this law was based on protecting employees from second hand smoke. I've always felt customers should have the freedom to choose if they want to patronize an establishment that permits smoking, unfortunately, this smoking law only protects some employees. My own daughter (choosing not to work at Grizzly's because of the fact that it's hard being the owner's daughter as an employee) is a bartender at the Holiday Inn in Fargo and was employed when the law went into effect. Customers can smoke in that bar. I find it ironic that Grizzly's employees are protected from second hand smoke but my daughter, who virtually is in the same business serving food and/or beverages to the public, is not. Granted, she has the freedom to quit and pursue a different job that protects her from second hand smoke but there are many employees who do not have that option and that is certainly not the intent of this law.

I believe in competition and free enterprise. This law created economic hardships for my company and not for my competition. All I ask is for you to please make the North Dakota No Smoking Law fair for all and level the playing field for all restaurants and bars ensuring that no business owner is discriminated against. We work hard to compete against not only the big corporate chains but all bars, legion clubs (and I am a member of the American Legion), bowling alleys and all who sell alcohol. It's just too hard these days to lose sales and profits from something that is totally out of our control while trying to compete in the restaurant industry.

If North Dakota has a no smoking law, it should apply to all establishments and protect all employees. Thank you.

Sincerely,

Steve Letnes
CEO – Grizzly's Grill N' Saloon
steve@grizzlysgrill.com

Att #3
2-6-07

TESTAMONY ON SENATE BILL 2164
Herbert J. Wilson, MD

Chairman: Dave Nething
Members of the Senate Judiciary Committee

Dear Senators,

I am Herbert Wilson, a retired physician, and currently a registered lobbyist for the American Lung Association of the Upper Midwest. (ALAUM, is the new acronym for the regional Lung -Christmas Seal-people) ALAUM fully approves of the content of 2164. Many States for a number of years have had similar "Clean Air" laws.. There have been very few problems once the law came into being.

SB 2164 tightens up a similar law passed in the 59th Legislative Session.. The new law will eliminate some of the exceptions written into the older bill—most prominent of these being the allowing of smoking in bars,. Also in the old bill exceptions were allowed for truck stops and for private functions being managed commercially.

In the weekly yellow SENATE COMMITTEE HEARING REPORT the abbreviated description of this bill is "9:00 AM SB2164 Relating to the posting of no smoking signs" Indeed, I feel signs may be an important part early on as the bill becomes law, but once there is familiarity , the signs should not be needed. Such has been the case in the other states adapting similar clean air laws. I talked with my son in San Diego this morning and he said that only occasionally has he ever seen a no smoking sign, ---- one exception- some of the beaches are also smoke free. and are posted as such..

So what else about this bill?

Need I say much about the scientific evidence that proves the lethality of 2nd hand smoke. In the year 2005 I believe there were 3,400 lung cancer deaths attributed to second hand smoke, and 6,500 cardiac deaths likewise felt to have been brought on by tobacco smoke in the environment.. Quite well known was the study showing increased cancer risk among the air stewardesses (1970s) when the hazards of second hand smoke were just being realized. There have been numerous studies since that time and all come to the same conclusion. Big Tobacco has tried to refute these studies and confuse the issue. They have been unsuccessful.

The American Lung Association wishes to thank the sponsors of Senate Bill 2164, and- in advance-this committee for bringing nearer to completion what was started in 2005.

Herbert J. Wilson, MD

Att #4
2-6-07

Senator Nething and members of the Judiciary Committee,

I am Dr Jim Hughes. My specialty is lung disease. I have worked at the Heart and Lung Clinic at St Alexius in Bismarck since 1979. Thank you for the opportunity to testify this morning. What we are here to discuss is the serious issue of how our State chooses to protect its citizens from a deadly public health hazard- Second Hand Smoke.

Last June the latest US Surgeon General's Report on The Health Effects of Second Hand Smoke was released. At about that time I was entering Dublin Airport while traveling with my son, Andrew. Posted prominently in the hallway on the way to customs was a sign alerting us that smoking in public places in Ireland is illegal and that the fine was 2000 Euros or about \$2600. The ban included the pubs and bars we visited. The Irish and the innumerable tourists we saw had no difficulty enjoying themselves. There was no indication that people felt their rights were being violated. Quite the contrary. Business was brisk and the air was clean. Not lighting up CAN be an easy decision, even for those who are addicted to nicotine.

The Surgeon General's Report was a stark reminder that every milestone in our knowledge of the health effects of smoking provides further documentation that tobacco smoke is much more dangerous than we are willing to accept. How could something that 80% of us had in our bodies 20 years ago be so lethal?

Could it really cause tens of thousands of cardiovascular deaths in non-smokers each year? In the United States 3000 lung cancer deaths and 7000 new cases of lung cancer are attributed to second hand smoke. The surgeon general's report stresses that all people are at risk-from infants succumbing to SIDS, to heart disease and lung cancer in flight attendants, to healthy college students who can loose the lottery of capricious harm from environmental carcinogens. Cancer is an incremental disease, with the malignant transformation of a cell occurring in a short series of steps, each of which may be triggered by a single carcinogen exposure. There is no safe level of exposure to tobacco smoke, no population immune to the risks, and no ventilation system capable of cleaning air tainted by the carcinogens and biological poisons in tobacco smoke. Second hand smoke is an indiscriminate serial killer, and the amber alert that someone's health is going missing is illuminated with each puff on a cigarette. While there has been progress in limiting exposure to tobacco smoke 40 percent of non-smoking Americans still have measurable levels of nicotine in their bodies. The way forward is to clear the air and pass legislation such as you have

before you. In retrospect, there will be no doubt that SB 2164 is the right legislation for the times. It will save lives, and it will contribute to young people making the choice to not become addicted to tobacco. If you convince 3 kids to not smoke you will have saved one life. You can assume that anyone using tobacco is addicted. Contemplate that as you listen to arguments against this bill. 24% of adults in the US are smokers. 70% of them want to quit, and about 3 million do each year. Those that are trying to quit benefit greatly from avoiding contact with smoking. This legislation is good for smokers. The ones it may harm it will only harm financially-I am referring to those that profit from the addiction while turning a blind eye to the health consequences and societal cost of tobacco.

Surgeon General Vice Admiral Richard H Carmona has framed the argument against Second Hand Smoke, It is up to us to face the threat and to deal with it.

Finally, I would like to express my admiration for my fellow physician Dr Ralph Kilzer, who may thru this legislation, together with his Senate and House colleagues, do more to promote lung health and save more lives than I have done in my career. I would be happy to take any questions.

ATT #5
2-6-07

Testimony

SB No. 2164

Senate Judiciary Committee

February 6, 2007, 9:00 a.m.

Good morning Chairman Nething and members of the Senate Judiciary Committee. My name is Kathleen Mangskau, and I am here to provide testimony in support of Senate Bill 2164 to enhance protections of workers and the public from the dangers of secondhand smoke. My immediate family has been significantly impacted by tobacco use. My husband and I lost parents to heart disease, stroke and lung cancer that were directly attributed to tobacco use. I also have immediate family members with exacerbated asthma and acute bouts of bronchitis as a result of exposure to secondhand smoke.

From 2001 to 2006 I served as the Director of the Division of Tobacco Prevention and Control in the state. In that capacity I had the opportunity to work with others to implement North Dakota's smoke-free law in 2005. That surely was one of the most challenging and rewarding experiences of my career. I received many calls from North Dakotans indicating how pleased they were with the new legislation. I also received a few complaints, but much to my surprise, the majority of the complaints were from individuals who felt the law did not go far enough; they felt bars should have been included in the legislation. I also received a phone call from a national truckers' newsletter. They were doing an article on the North Dakota smoke-free legislation as they indicated North Dakota was the only state currently exempting truckers' lounges from the law.

There are a number of significant events since passage of the 2005 smoke-free bill that make this an important time to enhance the smoke-free protections for our workers.

- First, the 2006 U.S. Surgeon's General's Report concludes there is no safe level of exposure to secondhand smoke. Even short exposures can cause harm. Separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate exposures of nonsmokers to secondhand smoke. Only smoke-free environments afford full protection. Secondhand smoke is not just an annoyance; it is a public health hazard.
- Second, Exposure to secondhand smoke has substantial and profound immediate adverse effects on the cardiovascular system. There are three recent studies (Helena, Montana; Pueblo, Colorado; and Italy) that demonstrate reductions in heart attack hospital admissions in communities after they implemented smoke-free workplace laws. The 2006 Surgeon General's Report concludes that nonsmokers exposed to secondhand smoke at home or work increase their risk of developing heart disease by 25 to 30 percent and lung cancer by 20-30 percent.
- Third, North Dakotans have shown their support for smoke-free laws. According to a 2006 study conducted by Winkelman Consulting nearly two-thirds of North Dakotans support expanding the current state law to make all workplaces smoke free. As of November 2006, eighteen (18) states/territories have passed comprehensive smoke-free laws that include bars; and that number continues to grow. More than 50 percent of Americans now enjoy smoke-free protections.

In discussions regarding smoke-free legislation we often hear about the "personal rights" of smokers. Any personal behavior that negatively impacts others should be a discussion of public policy. Nonsmokers have the right to breathe smoke-free air. Smokers can continue to smoke, but not in ways that harm others. Smoke-free air laws are similar to drunk driving laws, which do not prohibit drinking, but do regulate certain behaviors when they present a danger to others.

The opposition often says that individuals can choose where they work. I had a mother call and talk to me about the fact that she had to accept a job as wait staff in

a smoky bar to get her TANF benefits. She said her son had asthma and each night when she returned home she had to immediately shower and wash her clothes as the odor would often send her little boy into a coughing fit. College students also said they often took jobs as wait staff as those were the only positions open that would fit their class schedule.

Likewise, we often hear that it is the right of a business to choose their smoking policy. The health and economic consequences of tobacco use are huge. Smoking alone costs the state over \$370 million in direct health care costs and lost productivity each year. The income to the state from tobacco products each year does not come close to that amount with slightly over \$20 million in tobacco taxes and around \$22 million in tobacco settlement funds. There is still over a \$300 million deficit for which North Dakotans must bear the burden each year. With the ever-rising health care costs, it would seem prudent to prevent and reduce exposure to secondhand smoke to help prevent the death and disability from tobacco use. When people smoke in public places, they affect the health of everyone around them. Businesses and taxpayers alike can reduce their economic burden by enacting smoke-free policy statewide.

There is no question that secondhand smoke causes serious disease and death. There is no reason that anyone should have to breathe in the toxins in secondhand smoke to earn a paycheck or as a consequence of patronizing a restaurant or bar in their community. The recent Surgeon General's Report leaves absolutely no doubt that secondhand smoke is a serious health hazard and all workers should have the right to breathe smoke-free air. It's time for North Dakota to protect all their workers from secondhand smoke. SB 2164 provides that opportunity. I urge your support of SB 2164. It's about the public's health.

I would be happy to answer any questions that you or other members of the committee may have. Thank you.

3) Results of U Mary Survey AH #4

2

-87% - smoking banned from buildings & entrances

-59% - support a smoke-free campus

4) Personally, I do enjoy socializing w/ my friends, and as we all know college students over the age of 21 have the option to go to the bars where there is music & a place to dance. However, I feel limited because of my exposure to second hand smoke. After a night out w/ my friends in places that allow smoking, it is harder for me to breathe & my chest feels tight (3 days)
"Breathe Fresh Air"

AH. # 6 a

Chairman Nething and members of the judiciary committee my name is Meggan Carter, and I worked as a server in a local restaurant that permitted smoking until the recent ^{local} no-smoking ordinance went into effect in October 2005. When smoking was allowed in the restaurant I would wake up the next day after work and would cough up a lot of junk. I knew that it was bad for my body to be in the middle of second-hand smoke every day but as a college student, I needed the money. After smoking was banned from restaurants it was a lot easier to wake up the next morning without having to cough. Also, when I would finish a shift, it was a breath of fresh air to smell food on my clothes instead of smoke. Senate Bill 2164 would provide all servers in the state of the North Dakota with a healthy smoke-free environment. Don't think that would make North Dakota a safer place to live?
^{you}

Thank you

Fort union room to the left.

HH #7
2-6-07

Chairman Nething and members of the Senate Judiciary Committee:

My name is Debbie Swanson. As the president of the ND Public Health Association, I represent 200 public health workers across the state of North Dakota. I wish to speak in support of Senate Bill 2164, a bill that would protect workers in North Dakota from the hazards of secondhand smoke. The science is clear, the public opinion is favorable, and the tipping point for change is occurring across the nation. As members of the ND Senate, you have the power to impact the health of our residents in a more significant way than many health care professionals ever will, simply by supporting this bill.

As an affiliate of the American Public Health Association, our organization adopted a resolution to hold our annual meetings in smoke free cities or conference facilities that provide a smoke free environment for their workers and patrons. When smoke free workplaces are the norm, everyone will benefit. Studies have shown there is no negative economic impact to smoke free laws. We believe workers in North Dakota should not have to choose between their job and their health.

I urge you to give favorable consideration to this bill. Thank you for your time and attention.

Debbie Swanson
3334 Primrose Ct.
Grand Forks, ND 58201
701-772-6103
dswanson@gra.midco.net

AH # 8
2-6-07

Hearing on Senate Bill 2164
Senate Judiciary Committee
Testimony presented by Kelly Buettner-Schmidt
Tuesday, February, 6, 2007

Good morning, Chairman Nething and members of the Committee. I'm Kelly Buettner-Schmidt, an Assistant Professor of Nursing and Project Director of Healthy Communities International at Minot State University (MSU).

My testimony will focus on three separate but related topics. First will be brief comments on a published summary of studies that have assessed the economic impact of smoke-free laws. The second and third items are the preliminary, and I emphasize preliminary, results of two studies MSU is currently conducting on the statewide smoke-free law passed during the 2005 session. One study is an economic impact study of the restaurant and bar industry and the other is an observational compliance assessment of restaurants, bars, bingo halls and bowling alleys.

Economic Impact of Smoke-Free Laws

The first topic concerns economic impact studies of smoke-free laws. Multiple studies have documented the economic impact of smoke-free policies. These studies were analyzed with the results published in 2003 by Scollo and Lal with the analysis updated in 2004.

It is important to note that well designed studies (1) are based on objective measures; (2) use data from several years before and after implementation of the policy; (3) use appropriate statistical tests that test for significance, controlling for underlying trends and fluctuations in data; and (4) control for changes in economic conditions.

The two key findings from Scollo and Lal are as follows.

- No negative economic impact from the introduction of smoke-free policies in restaurants and bars is indicated by the 21 studies where findings are based on an objective measure such as taxable sales receipts, where data points several years before and after the introduction of smoke-free policies were examined, where changes in economic conditions are appropriately controlled for, and where appropriate statistical tests are used to control for underlying trends and fluctuations in data. Just a few studies have found negative effects and each of these is methodologically flawed.
- Studies concluding a negative economic impact have predominately based findings on outcomes predicted before introduction of policies, or on subjective impressions of estimates of changes rather than actual, objective, verified or audited data. These studies were funded primarily by the tobacco industry or organizations allied with the tobacco industry. Almost none of the studies finding a negative impact are published in peer-reviewed journals.

(Scollo, M. & Lal, A. (2004) *A Summary of Studies Assessing the Economic Impact of Smoke-free Policies in the Hospitality Industry*, VicHealth Centre for Tobacco Control, April 2004, <http://www.vctc.org.au/tc-res/Hospitalitysummary.pdf>, accessed January 2005.)

Also, the US Surgeon General's Report released in 2006 reviewed additional studies and stated that "evidence from peer-reviewed studies shows that smoke-free policies and regulations do not have an adverse economic impact on the hospitality industry."

Economic Impact: Preliminary Results of a Study on the Economic Impact of North Dakota's Current Statewide Smoke-Free Law

The current smoke-free law was implemented in August of 2005. With one year of data available, the preliminary results indicate that in this first year of implementation the smoke-free law has had a neutral impact on the restaurant and bar industry in North Dakota.

MSU has worked collaboratively with the Centers for Disease Control and Roswell Cancer Park Institute of New York to design, implement and interpret the results of this study. It was agreed by all that I could share the preliminary results with this committee. We intend to finalize the results within a couple of weeks.

Referring to the four criteria noted earlier for quality studies, the MSU study is based on objective data, that data being the taxable sales of eating and drinking establishments available from the Office of the Tax Commissioner of ND. Secondly, this study uses data from 2003 through the 3rd quarter of 2006, thereby meeting the criterion of inclusion of several years before and after implementation of the policy. The third and fourth criteria relate to using appropriate statistical tests which control for underlying trends and fluctuations in data and to control for changes in economic conditions. The study first analyzed the taxable sales comparing changes and looking for trends; secondly, the study utilized ND's Total Retail Sales as a control, again looking for trends. Comparisons made were from a given quarter to the same quarters in previous years.

The preliminary results, which compared the quarters before implementation of the law and the quarters after implementation of law, found that the taxable sales in eating and drinking establishments continued to increase after implementation of the law. When using the control of Total Retail Sales, there was, as would be expected, some level of fluctuation both before and after implementation – however the fluctuations were quite small with all fluctuation being less than a one percent change either positive or negative. There appears to be no consistent change in trends after the smoke-free law was implemented. Based on these data, the preliminary results indicate that the statewide smoke-free law had a neutral impact on the taxable sales of eating and drinking establishments in ND.

It is customary to note limitations of scientific studies. It is important to note that this study includes only one year of post-implementation data. With a longer time frame and the accrual of more data points, the results of the study would be strengthened.

Compliance: Preliminary Results of a Compliance Assessment of North Dakota's Current Statewide Smoke-Free Law

An observational compliance assessment was conducted which included volunteers observing four types of establishments for compliance. The types of establishments observed were restaurants, bars, bowling alleys and bingo halls. Preliminary results are

available and we hope to complete the results within a few weeks. I would like to briefly share the preliminary results with the committee.

The methodology of this study included a systematic sampling technique with a total of 220 venues being assessed. Preliminary results indicate overall compliance in the primary establishments was quite high, at 100% compliance for bingo halls and bowling alleys and 98% for restaurants. A limitation of this study included the fact that a significant number of the bowling alleys were closed seasonally during the time of this study. Please note that while stand-alone bars were assessed, at this time they are not required to be smoke-free and so "compliance" was not an issue.

It is interesting to note that compliance decreased in establishments that were co-located (or adjoining) the primary establishments. Dining areas of bowling alleys were compliant only 75% of the time; bar areas of restaurants, which are to be separately enclosed, were compliant only 70% of the time; and bar areas of bowling alleys, also required to be enclosed, were compliant only 42% of the time. The co-located venues were noncompliant in terms of not being separately enclosed as required by law and not keeping doors shut between smoke-free areas and areas that could allow smoking. This noncompliance allows exposure to secondhand smoke in establishments required by law to be smoke-free. According to the US Surgeon General Report, there is no safe level of exposure to secondhand smoke.

Summary

In summary, quality studies of economic impact have demonstrated no economic impact from smoke-free laws and North Dakota is no exception. There appears to be no consistent change of trends in taxable sales of restaurants and bars after the North Dakota smoke-free law was implemented.

Nationwide, compliance with smoke-free laws is typically high. North Dakota's experience appears to be the same with preliminary results indicating high compliance in the primary establishments. However, co-located venues, as mentioned previously, appear to be more of a concern with compliance rates dropping, thereby allowing exposure to secondhand smoke in venues required to be smoke-free.

Thank you for the opportunity to present these preliminary findings to the committee. I would be happy to answer any questions.

Att # 9
2-6-07

To: Members of the North Dakota Senate Judiciary Committee
Re: **Testimony in support of Senate Bill 2164**
From: Vicki Voldal Rosenau
521 - 4th Ave. NW
Valley City, ND 58072
vrosenau@csicable.net

Date: February 6, 2007

Chairman Nething and Members of the North Dakota Senate Judiciary Committee,

The government has a responsibility to ensure that workplaces provide environments that are both safe and free from discrimination. Senate Bill 2164, championed by Sen. Ralph Kilzer, MD, addresses the first of these responsibilities by requiring that all North Dakota workplaces, including bars and lounges, provide clean air that is free of toxic secondhand smoke.

Although SB 2164 clearly addresses a pure-and-simple public-health need, some special-interest opponents have struggled mightily to tie the bill's fate to 'business profits' by falsely claiming that requiring bar owners to provide clean, safe (indoor) air for their employees will reduce business volume.

Even if such claims were valid, it would still be necessary to include bars in the smoke-free-workplace requirement, because to do otherwise would discriminate against employees in that category of workplaces. However, the tobacco-industry-inspired assertion of such profit loss is **not valid**. In fact, it is nothing more than the latest fabrication in Big Tobacco's infamous litany of Big Lies.

In order to put this current cunningly orchestrated lie into perspective, let's look at just five of its companions:

- I. Big Tobacco Lie # 1: "There's no proof that smoking cigarettes is bad for your health." [Isn't it just plain embarrassing to recall that, collectively, we fell for that whopper for many long, deadly years?]
- II. Big Tobacco Lie # 2: "Cigarettes (and nicotine) are not addictive - smoking is just an enjoyable habit." [Remember the hilarious news photos of that row of seven tobacco CEO's all stating under oath that 'Nicotine is not addictive' during the 1994 Congressional hearing? And they all managed to do it with a straight face!]
- III. Big Tobacco Lie # 3: "Well, maybe smoking can be harmful to the smoker, but secondhand smoke poses absolutely no danger to nonsmokers who are exposed to it." [There is massive and conclusive scientific research (→)]

proving that secondhand smoke is not only very dangerous, but even deadly. Last June, a new Surgeon General's Report re-affirmed that secondhand smoke is "a serious health hazard;" that "establishing smoke-free workplaces" is the only effective way to protect against it—and that even brief secondhand smoke exposure can cause immediate harm.]

IV. Big Tobacco Lie # 4: "If workplaces go smoke-free, valuable employees will resign *en masse*. [Actually, the opposite has proved to be true: Many top-notch candidates refuse to accept jobs in workplaces that still allow indoor smoking.]

V. Big Tobacco Lie # 5: "If restaurants are required to go smoke-free, they'll lose so many customers that they'll go out of business!" [This has been proven **absolutely false**: Genuine, sales-tax-based studies all show that smoke-free restaurant and bar laws have either no impact or a positive impact on sales.

That brings us to what you are being asked to swallow today, "Big Tobacco Lie # 6," which falsely claims:

VI. "Well, maybe the *restaurants* can get by, but requiring bars to eliminate indoor secondhand smoke will force them out of business." THE TRUTH: Once again, without exception, *bona fide* economic-impact studies all over the U.S. and even abroad show that smoke-free laws covering bars/pubs cause no downturn in business volume, and in some cases even enhance bars' business volume.

Just think of all the suffering and premature dying that could have been prevented if only we had refused to buy into all of Big Tobacco's Big Lies over the past 60 years! Obviously, we cannot turn back the clock and correct our past mistakes...but, now that the scales have been (painfully) removed from our eyes, **let's not fall for "Big Lie #6" in North Dakota**: Instead, please support passage of SB 2164 in the form in which it was introduced.

Thank you very much for your consideration.

[Please Note: At your request, I would be happy to provide comprehensive documentation for any of the information presented above.]

AA #10
2-6-07

Do Not Support SB2164
Representative Dwight Wrangham

Mr. Chairman, Members of the Senate Judiciary Committee

I am not pro smoking. I am pro smoker. What does that mean? It means I support efforts to help smokers quit smoking but I also want them to be able to enjoy their personal rights. They are not breaking a law by smoking. They should not be persecuted. "Pro smoker" is not a popular position with some crowds but I believe smokers need and deserve a voice to.

I do not defend smoking. I do defend smoker's rights. I want to be pro active in finding ways to help smokers who want to quit. And, most of all I support efforts to educate our youth about the health and addiction pitfalls of smoking.

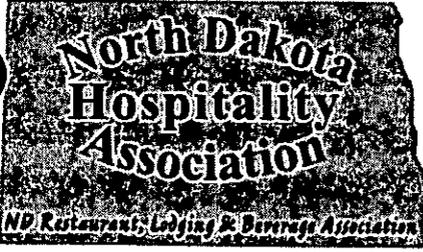
SB 2164 does not deal with whether people should smoke. Whether adult smokers should be allowed a place to meet socially is the question.

I have here petitions signed by over 10,000 tavern patrons who say "Stop trying to criminalize me; smoking is a legal activity. The bar is the last place my smoking friends and I can gather socially."

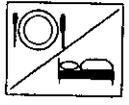
As legislators, we passed the smoking ban in bingo halls last session. The result, Williston bingo hall closed, Grand Forks, net revenues down 113 % from 222,000 to -28,000, Fargo down 95% from 156,000 to 8,000 and on and on.

Let's not do the same thing to our taverns. Please vote no on SB2164.

AH # 11
2-6-07



ND's Restaurant, Lodging & Beverage Association



P.O. Box 428 • Bismarck, ND 58502 • Phone: 701-223-3313 • Fax: 701-223-0215
E-mail: ndha@btinet.net • www.ndhospitality.com

Judiciary Committee
North Dakota Senate
February 6, 2007

SB 2164 (smoking ban bill)

Chairman Nething and members of the Committee, for the record, my name is Robert Harms. I am a lobbyist for the North Dakota Hospitality Association. We have 350 members in North Dakota engaged in the hospitality industry. We **oppose SB 2164.**

The issue before you is not about public health, it is about personal choice and responsibility—and the freedom to exercise choice. When it comes to smoking, it boils down to: Do we want to DICTATE or EDUCATE?

This morning I want to cover very briefly 4 points:

- what the bill does
- where will this legislation lead us?
- second hand smoke for employees
- freedom—a concept

The Bill:

-expands the long list (NDCC 23-12-09 (9)) of “public places” where smoking is prohibited to include all bars, and bars located in bowling centers, hotels or restaurants

(that were previously exempt, if in a separately enclosed area. (SECTION 1 and 2; p. 1 line 13-15; p. 4 line 16)

- prohibits smoking in truck stops (SECTION 1 and 2; p. 3 line 24-25; p. 4 line 20)

- prohibits smoking in any place of public access rented for private functions from which the general public and children were excluded (SECTION 2; p. 4 line 17-19) e.g. wedding dances; banquets, private Christmas Party.

-appears to create a private right of action (at least preserves any legal rights) that an employee has against an owner who "allows smoking" (SECTION 2; p. 4 line 26-28); *(Doesn't define "allows smoking" to delineate circumstances under which the employees rights are preserved; nor comport with state worker compensation immunity for employers under NDCC 65-01-01).*

-and finally, requires a sign be posted, in every public place where smoking is prohibited, clearly indicating "that smoking is prohibited". (SECTION 3. p. 5, line 3-5)

Where will SB 2164 lead us? If this bill passes, this won't be the end. In 2005 the Legislature debated long and hard on smoking legislation and passed SB 2300. The bill had numerous amendments, hearings and rehearings and was finally passed 61 to 32 and 33 to 11, with 3 of 4 sponsors serving as sponsors to SB 2164 now before you. If this bill passes, then we are likely to see what Minnesota is attempting—prohibiting smoking outdoors. *(See attached article).* We are likely to see legislation that is being tested around the country (La. AK, CA, CONN, IN, ME, MT, NJ, NY, UT, RI, and NJ) all are considering legislation to prohibit smoking in cars with children, and then places near children. And if smoking in cars with children should be prohibited, then certainly

smoking and using a cell phone while children are present are likely to come under scrutiny. We can imagine all sorts of steps---in the name of "public health" that we might dictate the personal behaviors of people---and otherwise limit their freedom, whether it's the food we eat, the carbonated beverages we serve our children, the amount of alcohol we drink, or the exercise we all should take. (And how far will we go--Smoking violators, fines, community service, repeat offenders, mandatory sentences, sign monitors etc.?) And shouldn't we extend the same limits upon the Tribal casinos through re-negotiating the gaming compacts? We think there is a better approach.

Second hand smoke of employees: I'd like to address "second hand smoke" of employees. The premise is that people who work in bars don't have a choice, so smoking should be prohibited to protect them from second hand smoke. Employees have the choice of where they want to work. Unemployment is low in North Dakota (2.-3% annually). An employee chooses where he or she wants to work, and that is true with respect to smoke free employers, and those who allow smoking. If we extend the protection to employees in bars, then why not those employees at the state hospital, or nursing homes---how are they different?

Freedom: All of us who oppose this bill this morning are wearing "FREEDOM" buttons, to demonstrate the personal liberty and freedom to exercise one's own judgment regarding his or her life---notwithstanding that others have a different view of what is best for you. That concept is at the core of this debate and how far we will impose upon our personal liberties-- upon the right to run your business as you deem best to serve you, your family and your customers. People are free to choose to come to places that allow their patrons to smoke or to go to those businesses that

are smoke free. Nothing prevents a business owner from saying: "my place is SMOKE free...if you want to smoke, don't come in". Likewise....if someone wants to cater to smokers, shouldn't they be allowed to do that as well? The exercise of choice and the free market is working. We should allow the free market and people's freedom to make their own choices carry the day on SB 2164.

For these reasons and others you will hear this morning we request that you give SB 2164 a DO NOT PASS recommendation to the North Dakota Senate.

AH #12
2-6-07

Good Morning Sen. Nething and Committee Members,

My Name is Allan Leier. I own and manage the Main Bar in Bismarck. I am apposed to Senate Bill 2164. Senate Bill 2164 is dangerous to my business. This bill takes the freedom of my choice to be a smoking bar. For the past six months or so, I have signs on my doors stating "WE ARE A SMOKING ESTABLISHMENT. IF SECOND HAND SMOKE OFFENDS YOU, PLEASE DO NOT ENTER".

Years ago, restaurants had microwaves with signs posted, Microwave in use. Did we outlaw microwaves?

In Bismarck, there are approximately 32 non-smoking alcohol establishments and 1 fraternal club. We have 4 Fraternal Clubs and 14 alcohol establishments that allow smoking. There are more non-smoking establishments then there are smoking. Tobacco is a legal product you can buy just about anywhere. I believe everyone has the right to breathe clean air and if you make the right choice, you can.

Some of my employees are here today, not to testify, but to show their support on defeating Senate Bill

2164. My employees knew before they applied for their jobs that this was a smoking bar. They have a choice to stay or leave. I have had employees stay over 25 years and some as long as a few months. I currently had an employee quit and later ask for her job back. The bar bashing ads shown on TV or heard on the radio are offending to some of my help. These ads make them feel as though they are not capable of making their own decisions, whether or not to work in a smoke free environment. If this bill passes, my employees may no longer have a job, and they are wondering why the local and state health department is supporting this bill.

Senate Bill 2164 in my opinion would cause a 40 to 60% loss of income in my bar. Such a loss is something I am not sure I can survive for any length of time. I would like to have the choice of going smoke free when business calls for it. If less than 45% of my patrons are smokers, I am sure I would go smoke free. At this point, more than 65% are smokers, and all of my employees (8) are smokers.

I have heard the word discrimination used by smokers. I do not think it is discrimination, but I do think it might be segregation. Not having a public

place for smokers to gather, that might be called segregation.

We have heard from supporters of this bill, it should not be about money, but about health reasons. This is about money. It is about my livelihood. If it was not about money, tobacco would be outlawed.

Everyday in our Free Country more freedoms are lost by legislation. We have troops dying for our freedom and we are here taking away what they are fighting for. Think about it before we loose another soldier.

I urge you to vote No on Senate Bill 2164.

Are there any questions?
Thank you for your time.

Smoking Bar

**Patrons May Be
Smoking Inside**

If You Think Secondhand Smoke
Is A Hazard To Your Health
You Should Not Enter

National
Write Your
Congressman

entering this establishment and will
sedeleanor, a fine of up to \$1000,
l to an addiction facility.

Prosecute

North Dakota
Hospitality
Association

Hot Lodging & Beverage Association

8 Bismarck, ND 58502

This Is A

Smoking Bar

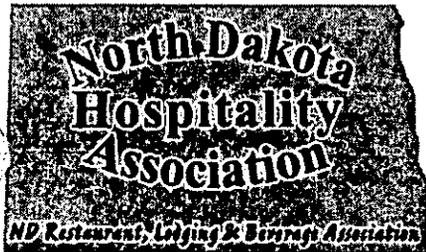
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North Dakota
Coin And Tavern
Association

01/14/2007

AH #13a
2-6-07



ND's Restaurant, Lodging & Beverage Association



P.O. Box 428 • Bismarck, ND 58502 • Phone: 701-223-3313 • Fax: 701-223-0215
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Testimony of Nicki Weissman
Executive Director of the North Dakota Hospitality Association
Senate Bill 2164
February 6, 2007

Mr. Chairman and members of the committee, my name is Nicki Weissman; and I am the Executive Director of the North Dakota Hospitality Association, which represents 800 bars in the state of North Dakota. We oppose SB 2164. I have had the privilege is travel to all corners of the state. Large communities and small have the same thing in common. There are bars in almost every town in this state.

Why do we feel you should leave smoking in bars? The discussion should be left up to the business owner. Freedom of choice, whether the business should have smoking or not, and freedom to make a responsible decision should be your guide. . The business person works hard for their business and wants the freedom to make the decision if they want smoking or not. These businesses want the freedom to decide what's best for their business, their customers, and their employees, rather than have the State make those decisions for them.

The North Dakota Hospitality Association and Coin and Tavern Association have conducted a research with DH Research from Fargo on this issue. Our research showed:

- - 97% of business owners believe that business owners have the right to make this decision---to allow smoking or not--- in their place of business. --(Page 2)
- - 61% of the employers have been in the business for 11 years or more – (Page 7)
- -90% of these business owners expect their revenues to go down if this bill is passed – (Page 4)
- -1/3 expect revenues to fall by 50-74% - Page 4
- 61% of employees that work in bars have been in the business for more than 11 years, and that
- 75% of the employees SMOKE.

Further testimony will explain the other results of this survey.

Mr. Chairman and committee members my travels have given me a different perspective of this situation. I am a non-smoker, I make the choice to go into a bar, and it is my choice to stay. Who are we to make their decision on how to run their business? If a person doesn't like a business because they allow smoking don't go in. That choice remains.

For these reasons, please consider a DNP on Senate bill # 2164.

To Whom It May Concern:

I'm writing this letter to ask you to consider the financial effect the smoking ban has had on our business over the last few years.

My name is Richard Benson; I am the Club manager of the West Fargo VFW. On the 15th of December 2004 we were required to not allow smoking throughout our entire club. Immediately our sales took a drastic drop. Over the previous 2 years our gross sales were up approximately 22%. The first year of the ban our bar sales fell over 30% and gaming fell 39% and continued at that level throughout the 2 years, we have had to cash in over \$100,000 in CD's to cover our losses over that period.

December 1st 2006 we were again allowed to let our patrons smoke. Our sales have immediately returned to the levels they were at before the ban was enacted.

We are a non-profit organization. We donate well over \$100,000 a year to many different city events, people in need, civic activities. We fund 100% for our city pool so that all children may swim for free, we have bought fire trucks, community centers, helped fund the memorial arena (an indoor hockey rink for the children). During the smoking ban our yearly donations dropped nearly \$50,000/year. We will not be able to continue giving back to the community the way we have in the past. Until you work in a club you never realize how much they give back to the community, I would like for all of you to look at your own communities to see how Veteran clubs have benefited your city over the years.

For those that want to argue the health effects of smoking, why are you going after business and not smoking. If your true desire is to save lives quit with the hypocrisy and outlaw the sales of cigarettes. I've worked this business for many years and have never met one person who 'had' to step foot into a bar, it has always been adults making the personal choice of enjoying the entertainment a bar supplies, knowing there may be smoking.

I've never understood the need adults have to protect adults from themselves. What has ever happened to personal choice?

Why don't we allow free economy decide when bars should go smoke free. We as bar managers owners are not dumb people, when we believe smoke free will be beneficial to business, we will then no longer allow smoking. That is the way free economy is supposed to work.

Here are some sales numbers before the ban and since

	Smoke Free		Smoking allowed	
	Oct 06	Nov 06	Dec 06	Jan 07
Bar Sales	\$28,000	\$30,000	\$45,000	\$47,000
Gaming Sales	\$160,000	\$144,000	\$180,000	\$230,000

I hope that when you vote on this measure you take in to account the effects this will have on your communities, this is not only a public health issue it is also has a large effect on business.

Richard Benson
 Club Manager
 VFW Post 7564

Conduct of Study

Telephone interviews were conducted with North Dakota tavern owners in February 2006 and with North Dakota state legislators in November 2006. Both sets of interviews were elements in a study on a possible ban on smoking in bars. The primary objectives of the two-part study were:

- Gauge revenue implications on taverns if smoking were banned in bars
- Identify anticipated impact on tavern business if such a ban went into effect
- Assess attitudes among legislators regarding smoking
- Determine level of legislative support for such a ban

This study was commissioned by the North Dakota Tavern Owners Association.

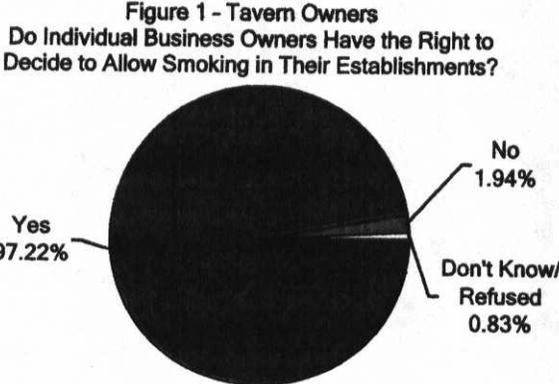
Interviewing for the tavern owner survey was done between February 21 and March 2, 2006. Participants included owners of bars and managers of fraternal organizations (collectively referred to as "tavern owners" herein) where at least 50% of the establishment's revenue came from alcohol sales. The sample used for the tavern owner survey was selected randomly from a listing of all taverns in the state of North Dakota. Duplicates were omitted from the list, as were establishments who reported they did not get more than 50% of their annual revenue from the sale of alcohol. Of the remaining 680 eligible bars and fraternal organizations, 52.94% of the owners/managers participated in the survey. The overall margin of error for the survey of tavern owners was $\pm 3.55\%$.

Interviewing for the state legislator survey began November 15 and finished on November 20, 2006. Several attempts were made to contact each of the 141 legislative members via telephone, using both office and residential numbers provided on the roster of North Dakota state legislators. A total of 74 legislators (52.48%) participated in the survey, resulting in an error margin of $\pm 7.88\%$.

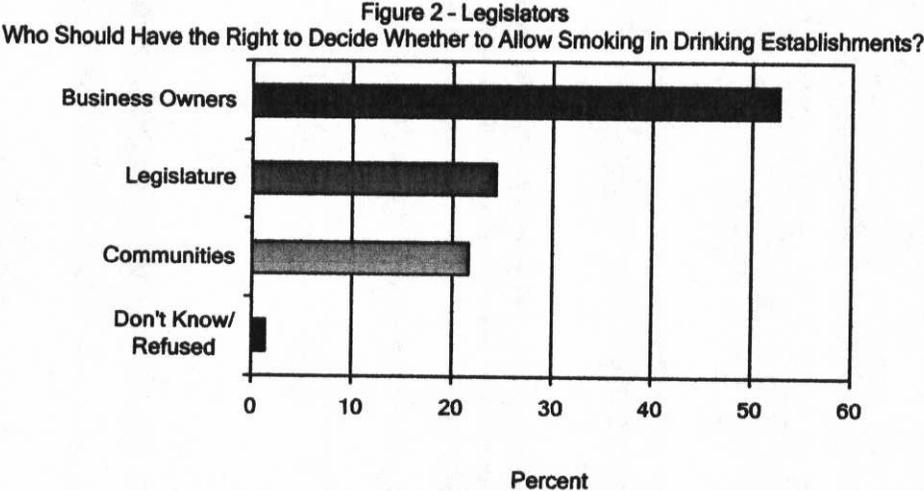
Mandatory training sessions were held for interviewers and others working on the project before interviewing for either parts of the study began. All interviewing sessions were supervised and periodic inspections of each interviewer's forms were made in order to identify errors and omissions - a practice ensuring early resolution of any problems in the interviewing process. For added quality assurance, interviews were randomly monitored by supervisors via a special telephone monitoring system. All data was double entered and then compared for discrepancies.

Summary of Findings

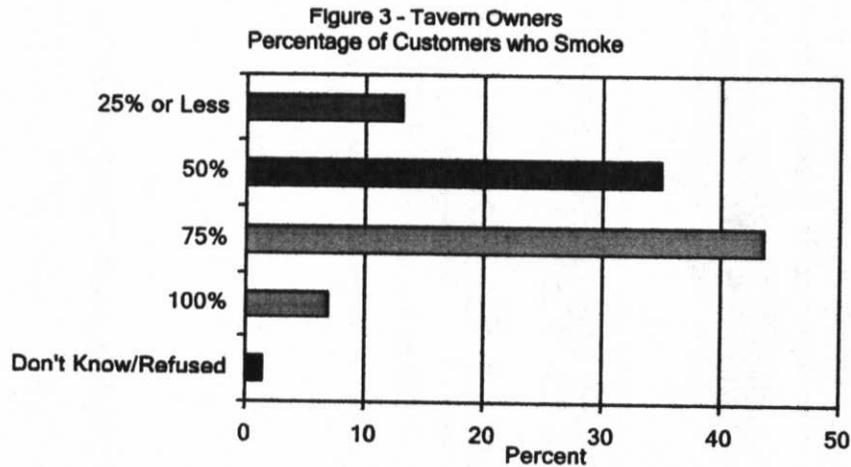
Virtually all (97.22%) tavern owners believe individual business owners have the right to decide to allow smoking in their establishments. Only 1.94% did not feel business owners had this right and three (0.83%) weren't sure or chose not to provide a response. (Figure 1)



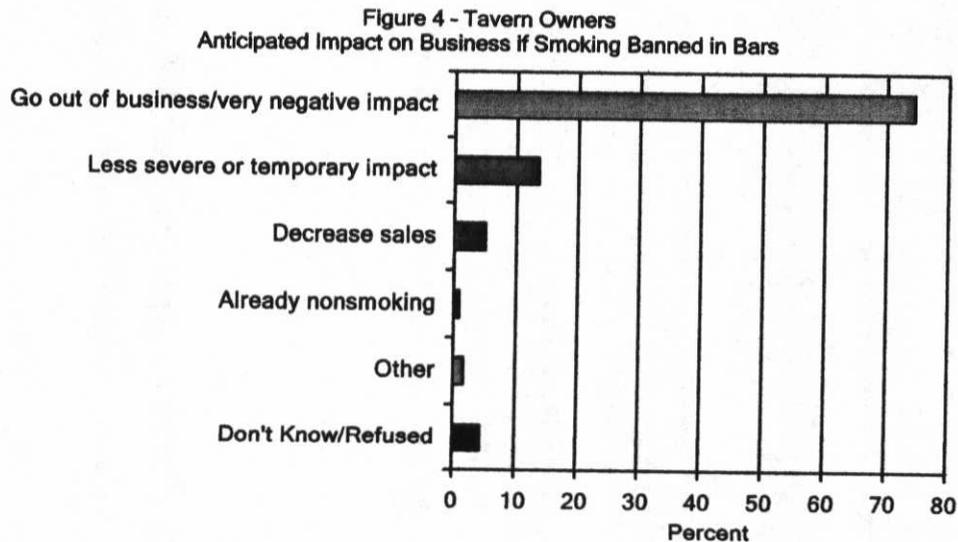
North Dakota legislators tended to agree with the tavern owners. Half (52.70%) of the legislators felt business owners should have the right to decide whether to allow smoking in their drinking establishments. Another 24.32% thought the legislature should have this right and 21.62% thought communities should be in charge of that decision. One legislator (1.35%) was unable or unwilling to provide a response. (Figure 2)



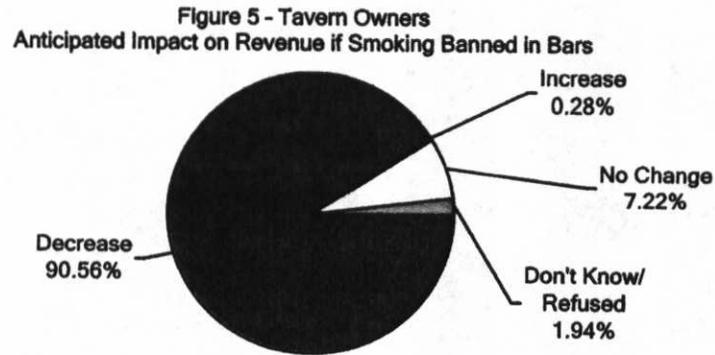
According to tavern owners, a majority of their customers are smokers. Only 13.06% of the owners said 25% or less of their customers smoke. Most said half (35.00%) or three-fourths (43.61%) of their clientele are smokers and a few (6.94%) indicated all their customers smoke. Five (1.39%) tavern owners were unsure what percentage or their customers smoke or chose not to answer. (Figure 3)



Three out of four (74.44%) tavern owners feel smoking legislation that bans smoking in bars would have a very negative impact on their business. A handful (13.61%) thought it would have a less severe or temporary impact, 5.00% said it would decrease sales, 0.83% indicated they already are nonsmoking and 1.67% cited other effects. Sixteen owners (4.44%) weren't sure what type of an impact such legislation would have on their business. (Figure 4)

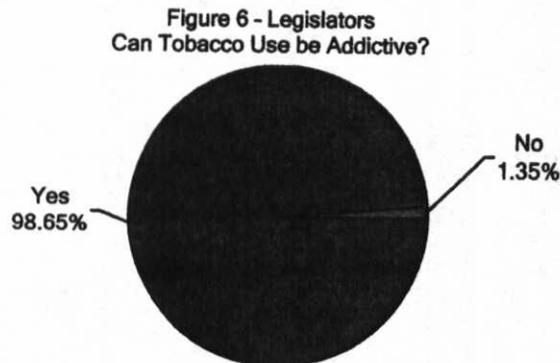


A vast majority (90.56%) of tavern owners believe their revenue will decrease if smoking in bars is banned. Only 7.22% didn't feel there would be a change in revenue and one owner (0.28%) thought this would cause revenue to increase. A small number (1.94%) of the respondents indicated they didn't know what impact such a ban would have on their revenue or refused to offer a response. (Figure 5)

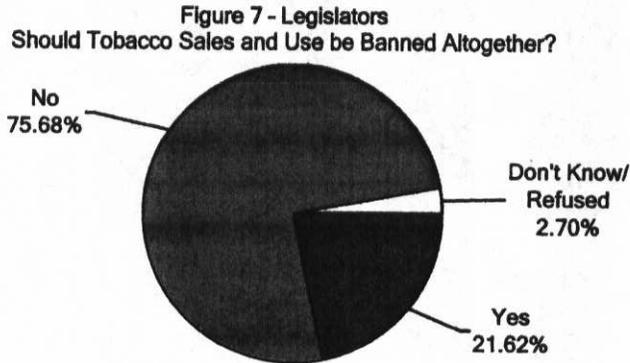


Among the 326 tavern owners who felt there would be a decrease in their revenue if smoking was banned in bars, nearly two out of three think it will cause at least a 50% drop in revenue. Nearly one-third (31.60%) anticipated a 50% to 74% decrease, while 14.11% thought the decrease would be 75% to 99%. More than one in six (17.79%) indicated such a ban would result in a total loss of revenue for their business. One-fifth (21.17%) of the owners thought revenue would decrease 25% to 49% and 9.20% thought the decrease would be even less.

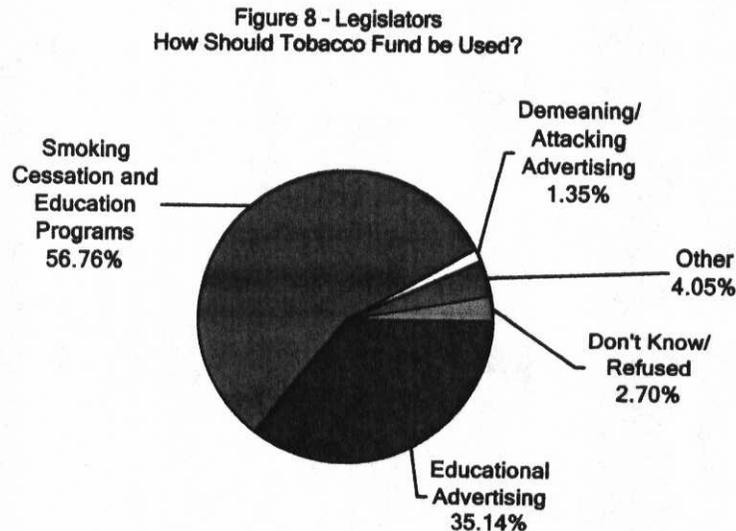
Practically all the legislators (98.65%) felt tobacco use can be addictive. Only one (1.35%) legislator said it can not be. (Figure 6)



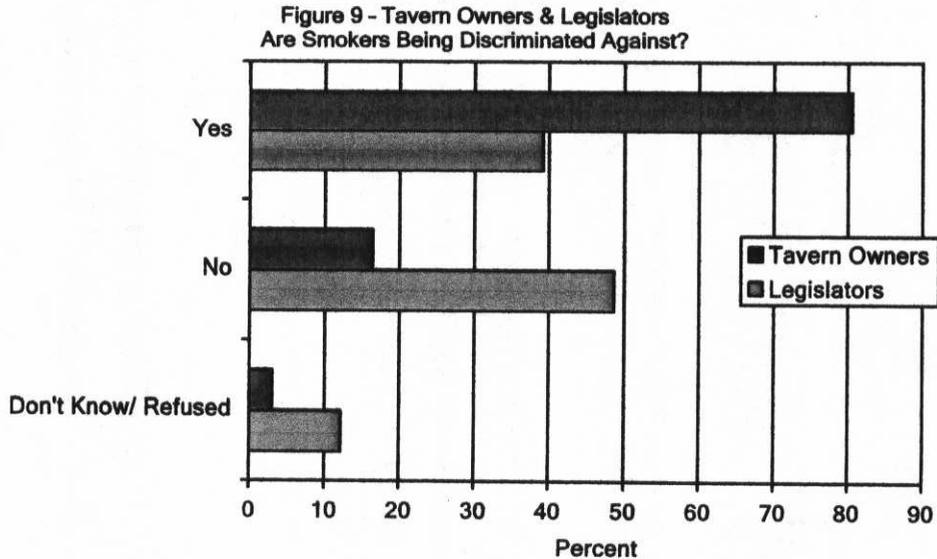
About one in five (21.62%) North Dakota legislators thought tobacco sales and use should be banned altogether; however, a majority (75.68%) did not agree with the idea. Two legislators (2.70%) weren't sure how they felt about it or refused to give their opinion. (Figure 7)



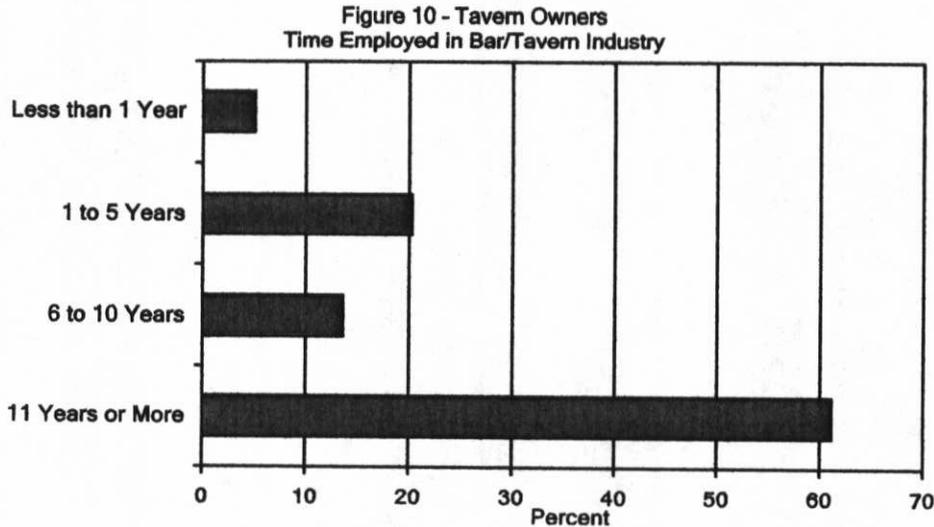
Just over half (56.76%) of the state legislators would prefer to see the tobacco fund used for smoking cessation and education programs, while about one in three (35.14%) felt it should be used for educational advertising. Only one (1.35%) legislator thought the funds should be used for advertising that demeans and attacks smokers and drinking establishments. Three (4.05%) thought it should be used in another manner and two (2.70%) weren't sure how it should be used or refused to answer. (Figure 8)



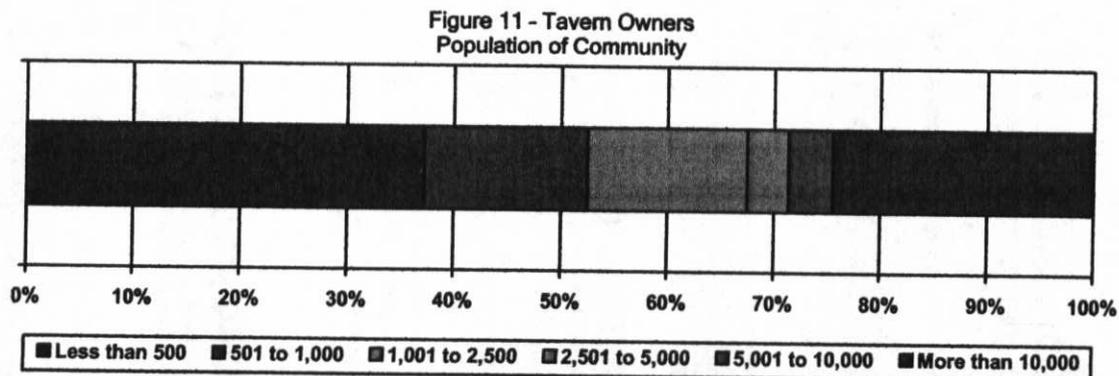
While most (80.56%) tavern owners believe smokers are being discriminated against, less than half (39.19%) of legislators felt banning smoking in all bars constituted discrimination against smokers. Half (48.65%) of the legislators said such a ban was not discrimination and 12.16% were unsure or refused to offer a response. Only a handful (16.39%) of the tavern owners didn't think smokers were experiencing discrimination and 3.06% were unable or unwilling to respond. (Figure 9)



The respondents representing the state's tavern owners were an experienced sample: many (61.11%) had been working in the bar/tavern industry for more than ten years. Another 13.61% had been in the industry for six to ten years, 20.28% had been employed in the industry for one to five years and only 5.00% had been working in a bar or tavern for less than one year. (Figure 10)



Well over one-third (37.22%) of the responding tavern owners indicated they lived in a community with a population of less than 500 and 15.28% were from communities of 501 to 1,000 residents. Fifteen percent of the tavern owners lived in communities of 1,001 to 2,500 residents, 3.89% were from communities of 2,501 to 5,000 and communities of 5,001 to 10,000 were home to 4.17% of the tavern owners. One in four (24.44%) were from communities of more than 10,000 people. While taverns in communities with less than 500 residents tended to have less than five employees and were typically the only bar in the community, those in communities of more than 10,000 tended to have at least 11 employees and were almost always one of three or more bars in the community. (Figure 11)



JAN 30, 2007

Companies spike nicotine levels, but regulators sit on their hands

By Rick LaFleur

I find it more than interesting to see the House Industry, Business and Labor Committee hearing on HB 1410, which would lower the nicotine content in cigarettes, noticeably devoid of testimony from the health department or the district health units. They certainly must have a position on nicotine content. The concept of nicotine, the addictive substance in cigarettes, and its relationship to smoking deserves the attention of the health department and those who truly wish to come up with a long-term meaningful solution.

The elimination of smoking in all public places is simply not going to stand as the monument in this issue. Presently, nonsmokers are not subjected publicly to secondhand smoke

unless they enter a tavern where they know secondhand smoke is present, or a nursing home, hospital, truckers' lounge or motel room that allows smoking. Even if these last legal public refuges for smokers are eliminated, smokers are simply going to smoke somewhere else. Smoking and secondhand smoke will not go away.

We need a thoughtful and carefully crafted effort to be effective. Nicotine content of cigarettes has increased an average of 10 percent to as much as 30 percent from 1998 to 2004, (Change in Nicotine Yields 1998-2004 by Massachusetts Department of Health), as well as cigarette design, which also increases the effectiveness of the delivery of nicotine. Here we are over a decade later and have no policy on the spiking of

nicotine levels, the very substance that makes quitting a misery those who do not smoke cannot appreciate. Surely at the very least the state health department and the district health units should advocate the freezing of additional nicotine being put into the cigarette content.

Smokers are victims of nicotine manipulation and addiction. They are not bad people and the negative demeaning advertising has eclipsed their true needs, and that is long-term solutions. Hopefully HB1410 will have served as a platform to begin to get control of the addiction which apparently is a non-issue in the current smoking plans.

LaFleur is a Devils Lake, N.D., businessman. He is president of the N.D. Coin Machine Operators Association and a member of the Coin and Tavern Association.

FARGO FORUM
Feb 1, 2007

THEIR OPINION

Harvard nicotine level report came to the wrong conclusions

By John R. Nelson

The recent report by Harvard University that concluded Philip Morris USA and other tobacco companies have deliberately increased the amount of nicotine that smokers get from cigarettes over the past seven years, if true, raises legitimate public and scientific concerns (Rick LaFleur column, Forum, Jan. 29).

News of this report has increased the volume of those voices that favor regulation of cigarettes by the federal Food and Drug Administration. Philip Morris USA continues to support the legislation introduced in 2005 to grant the FDA authority over the product including the regulation of tar and nicotine. Such authority would directly address the concerns raised in the Harvard report. It's a comprehensive bill, and currently Philip Morris

USA is the only major cigarette manufacturer that supports it.

Cigarettes are addictive and cause serious diseases. The nicotine in cigarette smoke is addictive and an important health issue. But the conclusion from the report, that there was a trend of more and more nicotine in cigarettes between 1997 and 2005, and that the cigarettes were designed to yield greater amounts year after year, is not true for Philip Morris USA. We recognize that is a strong statement. And we understand it is important for us to demonstrate why and in what ways this conclusion is not accurate.

Contrary to the implications of the report, we have not changed the design of our cigarettes with the intention of increasing nicotine yields in order to make the product more addictive. The Harvard report itself also found no upward trends in Marlboro

cigarettes for measures that the authors concluded were related to cigarette design and increased nicotine yield, including puffs per cigarette, nicotine content per cigarette or nicotine concentration in the tobacco rod.

In fact, the machine test data we submitted to the Massachusetts Department of Public Health shows that year-to-year variations in nicotine occur. These year-to-year variations occur as part of the normal processes of growing tobacco and manufacturing cigarettes, but the nicotine yields in Marlboro cigarettes were the same in 1997 as in 2006: 1.86 milligrams per cigarette. That's not a trend up or down.

We understand that many are skeptical of what we say and do, but our actions and the data are transparent.

Nelson is president of operations and technology for Philip Morris USA, Richmond, Va.

washingtonpost.com

Nicotine Up Sharply In Many Cigarettes

Some Brands More Than 30% Stronger

By David Brown
Washington Post Staff Writer
Thursday, August 31, 2006; A01

The amount of nicotine in most cigarettes rose an average of almost 10 percent from 1998 to 2004, with brands most popular with young people and minorities registering the biggest increases and highest nicotine content, according to a new study.

Nicotine is highly addictive, and while no one has studied the effect of the increases on smokers, the higher levels theoretically could make new smokers more easily addicted and make it harder for established smokers to quit.

The trend was discovered by the Massachusetts Department of Public Health, which requires that tobacco companies measure the nicotine content of cigarettes each year and report the results.

As measured using a method that mimics actual smoking, the nicotine delivered per cigarette -- the "yield" -- rose 9.9 percent from 1998 to 2004 -- from 1.72 milligrams to 1.89. The total nicotine content increased an average of 16.6 percent in that period, and the amount of nicotine per gram of tobacco increased 11.3 percent.

The study, reported by the Boston Globe, found that 92 of 116 brands tested had higher nicotine yields in 2004 than in 1998, and 52 had increases of more than 10 percent.

Boxes of Doral lights, a low-tar brand made by R.J. Reynolds Tobacco Co., had the biggest increase in yield, 36 percent. Some of this may have been the result of an increase in the total amount of tobacco put in that brand's cigarettes, one expert said.

The nicotine in Marlboro products, preferred by two-thirds of high school smokers, increased 12 percent. Kool lights increased 30 percent. Two-thirds of African American smokers use menthol brands.

Not only did most brands have more nicotine in 2004, the number of brands with very high nicotine yields also rose.

In 1998, Newport 100s and unfiltered Camels were tied for highest nicotine yield at 2.9 milligrams. In 2004, Newport had risen to 3.2 milligrams, and five brands measured 3 milligrams or higher.

"The reports are stunning," said Matthew L. Myers, president of the Campaign for Tobacco-Free Kids. "What's critical is the consistency of the increase, which leads to the conclusion that it has to have been conscious and deliberate."

"People need to be aware of this," said Sally Fogerty, Massachusetts's associate commissioner for

Advertisement



community health. "If a person is trying to quit and is having a hard time, it's not just them. There is an increasing percentage of nicotine that they are ingesting, and that may make it more difficult."

The Centers for Disease Control and Prevention also focused on the potential behavioral consequences of the finding.

"We know nicotine is addictive, so if the amount of nicotine in cigarettes is increasing, it could make it even harder for the 70 percent of smokers who want to quit and the more than 40 percent who try to quit every year," Corinne Husten, acting director of the CDC's Office on Smoking and Health, said in an e-mail message.

No spokesman for a tobacco company would speak on the record about the Massachusetts findings yesterday.

One company official, speaking on the condition of anonymity, said that while the nicotine content measured by smoking machines can vary by up to 6 percent between individual cigarettes of the same brand, "we don't know" whether an entire brand's production could differ that much from year to year.

But in a 1,653-page opinion released two weeks ago in a landmark suit against the major tobacco companies by the federal government and several anti-smoking organizations, the judge found that cigarette makers adjusted nicotine levels with great care.

"Using the knowledge produced by that research, defendants have designed their cigarettes to precisely control nicotine delivery levels and provide doses of nicotine sufficient to create and sustain addiction," wrote U.S. District Judge Gladys Kessler.

The ruling enjoined the companies from misinforming the public about tobacco's hazards. The companies are uncertain what that means and cited the ruling yesterday as the chief reason for their silence. Reynolds and Lorillard Tobacco Co. have also temporarily shut down their Web sites.

Reginald V. Fant, a clinical pharmacologist and nicotine expert at Pinney Associates, a consulting firm in Bethesda, said increasing nicotine content by 10 percent "would not be expected" to change how much a person smokes but could affect his ability to quit.

"We know that physiologically the changes in the nicotine receptors in the brain are related to the amount of nicotine consumed," he said.

Neal Benowitz, a physician and pharmacologist at the University of California at San Francisco, said, "I don't think we know what the consequences are for the population in terms of addictive behavior and how hard it is for people to quit."

Myers said the Massachusetts findings are evidence that tobacco products should be more strictly regulated.

"The only way the companies were able to secretly increase nicotine levels without anyone knowing about it is because no federal agency regulates tobacco products," he said.

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AH #15
2-6-07

CHARMAN NETHING, COMMITTEE MEMBERS

MY NAME IS LOWELL THOMAS FROM MINOT. I AM TESTIFYING AS PRESIDENT OF THE NORTH DAKOTA TOURNAMENT ASSOCIATION.

WE HAVE CLOSE TO 30,000 POOL AND DART PLAYERS ACROSS THE STATE OF NORTH DAKOTA DAKOTA.

WE HOLD 4 STATE TOURNAMENTS EACH YEAR IN FOUR DIFFERENT CITIES. WHEN WE HOLD A TOURNAMENT IN WILLISTON OR DICKINSON IT IS SAFE TO SAY IT IS CLOSE TO BEING THEIR LARGEST SCHEDULED EVENT. NOT ONLY ARE WE RESPONSIBLE FOR RENTING EVERY ROOM IN THE LARGEST HOTEL FACILITY WE RENT ALMOST EVERY ROOM IN THE ENTIRE CITY.

WHEN HOSTED IN MINOT AT THE HOLIDAY INN OR THE INTERNATIONAL INN IT USUALLY RANKS SOMEWHERE IN THE TOP FOUR HOTEL INCOME PRODUCING WEEK-ENDS FOR THAT HOTEL FOR THE YEAR.

A COUPLE WEEKS AGO AFTER YOUR LEGISLATIVE DINNER AT THE RAM KOTA WE SET UP 84 DART BOARDS AFTER YOU LEFT AT 10:00 PM. THAT WEEK END WE HELD THE LARGEST SINGLES DOUBLES TRIPLES DART TOURNAMENT EVER.

NOW IF WE ARE THAT IMPORTANT TO THE HOTEL INDUSTRY----JUST THINK WHAT THESE LEAGUE PLAYERS MEAN TO THE BAR INDUSTRY ACROSS THE STATE OF NORTH DAKOTA FROM THE SMALLER TO THE LARGER LOCATIONS. WHEN LEAGUE IS SCHEDULED THEY WILL BE THERE. I HAVE ONLY CANCELLED TWO NIGHTS IN THE LAST 15 YEARS.

THESE ARE NOT THE CUSTOMERS WHO JUST STOP IN ONCE A MONTH. THESE ARE USUALLY THEIR STEADY CUSTOMERS AND THAT IS WHY THEY PLAY FOR THAT BAR.

WHAT IS THE POINT OF THIS TESTIMONEY

ITS SIMPLE---BETWEEN 70 AND 80% OF OUR PLAYERS SMOKE.....

I HAVE NEVER AND I MEAN NEVER HAD A PLAYER TELL ME THEY WERE NOT GOING TO STATE IF THERE WAS SMOKING---I HAVE HAD PLENTY TELL ME THEY WOULD NOT GO IF THEY COULDN'T SMOKE.

LAST WEEK-END IN MINOT WE HAD AN OPERATORS 3-DAY TOURNAMENT AT THE HOLDIAY INN. THERE WERE ALMOST A 1000 PLAYERS ENTERED. WHEN I WALKED OUT TO MY CAR AFTER MIDNIGHT ON SATURDAY

IT WAS COLD AND I MEAN COLD. WE KNOW NORTH DAKOTA WEATHER.

WHAT IF PLAYERS WOULD HAVE TO GO OUTSIDE TO HAVE A CIGARETTE. NATURALLY THEY WOULD TRY TO GET OUT OF THE WIND AND RUN TO THEIR CAR. THEN WHAT IF THEY TOOK A NAP OR PASSED OUT.

THE ONLY THING WE SHOULD HAVE TO WORRY ABOUT DYING IS SENATE BILL 2164

AH #16

2-6-07

February 6, 2007

Good Morning:

My name is Ann Murchie from Jamestown, North Dakota. I am a proud Disabled American Veteran, having served a little more than 27 ½ years (active and reserve duty) during Viet Nam and in Desert Storm. During this time, I was exposed to numerous unknown toxic substances; but I chose to serve because I strongly believe freedom is worth fighting for.

I choose to frequent bars that allow smoking for socialization purposes. I'm an avid pool player and this is where I meet several of my friends. To ban smoking in these facilities erodes my freedom and also the owners of these establishments choice of freedom.

I am highly allergic to grain pollen and dust, but I **CHOOSE** to live in North Dakota and accept the discomforts of summer and fall, just as I **CHOOSE** to frequent bars that allow smoking.

I urge a "do not pass" on Bill # 2164.⁵⁶

Thank you,

Ann M. Murchie
SFC Ann M. Murchie (retired)
523 1st Avenue North
Jamestown, North Dakota 58401

HH #17
2-6-07

Mr. Chairman and members of the committee, my name Lisa Hixson. I am the manager of the Stadium Sports Bar here in Bismarck. I am here today to speak strongly against this bill. We just put a great deal of money into a brand new bar that is so far doing well here in Bismarck. We have roof top fans and 4 smoke eaters throughout the bar to take care of the ventilation of smoke, with another one on order depending on the outcome of this bill. Approximately 80% of our tables in our bar a night have a minimum of one smoker. We, as a business have made the choice to provide an environment that smokers and nonsmokers alike can frequent. We have posted a sign at the front door stating we are a smoking bar so that patrons who choose not to go into smoking bars know ahead of time before they even step in the door.

In Bismarck there are more than 2 to 1 non smoking bars to smoking bars that non smokers can choose to go and enjoy a beverage without being in a smoking environment. For the people who smoke shouldn't they have some rights to gather socially, in a business that has made a choice to welcome them, and where there is no one under the age of 21.

I am a non smoker and I have made the choice to work in a smoking environment because of the love of the business and the life it provides for my daughter and me. We as a business feel that we should have the option to choose how we are going to run our business. We are the ones that know our clientele best and know what it will take to make our business run. We are also the ones that have to make the monthly bank payment, the insurance payment, the utility payment, the state tax payment which is approx. \$7000 a month, and many more payments per month. There have already been so many stipulations put on our business. Isn't it time that we are put in control of our destinies and make some choices for ourselves. I have brought with me many of my employees who are here opposed to this bill. They are smokers and non smokers alike and those they have made the choice to work at our establishment with it being a smoking bar. Some will tell you they like it because it is a place they can smoke also. Some will tell you that many people know that some people smoke when they drink and they believe it adds to the volume of our business and there in adds to there money they take home each night. Whatever reason, they have chosen this establishment to work in and continue to choose to work there and are opposed to the change. The unemployment rate is so low in North Dakota, we are not forcing these people to work in our establishment, they would be able to find a job almost anywhere in the same field, but they choose to work in a smoking bar.

This September when we opened our doors, I had many pool and dart teams switch to our bar for the fact that they could smoke there and can't smoke in the previous bars that they have played in. We also have had volleyball teams, basketball teams, and softball teams ask me to sponsor them because of the fact we allow smoking.

Please understand that I am fully aware that many people do not want to be around smoke. I have friends that choose not to frequent our bar due to the fact that we are a smoking bar. I respect them for that. I just would like to be put in control of my own

business and by that make the choice to offer one of the few places for someone who smokes to go.

Chairman and Members of the Committee.

My name is Warren Schneider and I own a Tavern in Bottineau.

I came today to speak in opposition of this bill.

Smoking is not an illegal act.

How can we tell smokers that they can no longer meet and enjoy a beverage and a smoke in the Tavern of their choice.

And that is the issue here today (choice)

95% of my patrons smoke

All of my bartenders smoke and they work for me because they can smoke, not in spite of it and they all do so by choice.

Att: # 18

As it should also be the bar owners choice to go non smoking or not.

Botno is a home rule community and no outside entity is qualified to tell us how to keep our business alive in a fragile economy as in rural North Dakota.

My bar started as a bank in 1908, but the bank went broke during the depression and in 1933 it was converted into a tavern.

~~_____~~ I am the 6th owner of this establishment in the last 74 years

If this bill passes it will bring down a business that has thrived for 74 years.

A business that has become a landmark in our community throughout the last century.

I hope and pray that this bill
is not only stopped here today
but in the future as well.

Or it may be the end of
many small businesses like
my own

Thank you

Warren Schuster

Battusier NJ

There are many bars that have proper ventilation. Those bars are no longer filled with the blue smoke haze, as it is pictured on TV. So, why not require all bars to be properly ventilated .

A few years ago I installed a \$50,000 air purifying system. The system includes HEPA filters, particle air filters, and is 99.97% efficient. There is a total of 15 installed in my bowling center and lounge. The air is a lot cleaner now.

Last year after the smoking ban went into effect, we saw a 10% decrease in bowling center. But our taxes and insurance rates went up, and the cost of living went up, of course wages went up.

If our revenue goes down, what replaces the sales tax the state will lose?

If our revenue goes down, then our business will be worth less, will our taxes go down? Insurance rates go down?

All bars have the choice if they want to be smoke free. Why can't we have the choice?

ATT # 20
19
2-6-07

Testimony

Senate Bill 2164

Judiciary Committee

Tuesday, February 6, 2007; 9 a.m.

North Dakota Department of Health

Good morning, Chairman Nething and members of the Judiciary Committee. My name is Terry Dwelle, and I am the State Health Officer with the North Dakota Department of Health. I am here to provide information about the health effects of secondhand smoke.

Secondhand smoke is a mixture of the smoke given off by the burning end of a cigarette, pipe or cigar and the smoke exhaled from the lungs of smokers. Secondhand smoke is also called environmental tobacco smoke, and exposure to secondhand smoke is called involuntary or passive smoking.

Eighty percent of North Dakotans do not smoke.

Health Effects of Secondhand Smoke

Over the past 20 years, hundreds of scientific studies have shown the dangers associated with secondhand smoke. Secondhand smoke has been found by more than 100 major peer-reviewed studies to be a health hazard, causing heart disease, lung cancer, heart attacks and respiratory illnesses including asthma. The most recent study was the 2006 U.S. Surgeon General's Report on *The Health Consequences of Involuntary Exposure to Tobacco Smoke*. It concluded that there is "no risk-free level of exposure to secondhand smoke." A summary of the Surgeon General's report is included with my testimony.

I have included two additional attachments. The first lists health organizations that have concluded that secondhand smoke is a significant health danger. They include the American Medical Association, Mayo Clinic, the World Health Organization, and the U.S. Environmental Protection Agency.

The second attachment briefly outlines the dangers of secondhand smoke. Secondhand smoke contains more than 50 known cancer-causing poisons and 250 toxins and releases 4,000 chemicals into the air after a cigarette is lit. Comprehensive smoke-free policies clear the air of cancer-causing chemicals and toxins.

Signage

Senate Bill 2164 requires that signs be posted in every public place and place of employment indicating that smoking is prohibited. Signs that would meet this requirement are available for free on the Department of Health's website or from the local public health units.

Conclusion

In conclusion, the Surgeon General's Report finds that even brief secondhand smoke exposure can cause immediate harm. The report says the only way to protect nonsmokers from the dangerous chemicals in secondhand smoke is to eliminate smoking indoors.

This concludes my testimony. I am happy to answer any questions you may have.

The Evidence is Clear: Secondhand Smoke is Harmful

For more than two decades, the nation's most respected health organizations have come to the same conclusions about secondhand smoke: it's dangerous and deadly. Each year, the body of evidence continues to grow.

World-renowned health organizations have concluded that secondhand smoke is a significant health danger:

American Medical Association
U.S. Surgeon General
Mayo Clinic
Centers for Disease Control and Prevention

National Cancer Institute
American Lung Association
World Health Organization
U.S. Environmental Protection Agency

Over the past 20 years, hundreds of scientific studies have shown the dangers associated with secondhand smoke. A few of the most noteworthy include:

1986: The U.S. Surgeon General released one of the first studies on the dangers of secondhand smoke. It reported that involuntary smoking is a cause of disease, including lung cancer, in healthy non-smokers.¹

1992: The U.S. Environmental Protection Agency concluded that widespread exposure to secondhand smoke is a serious and substantial public health danger. Specifically, it reported that secondhand smoke is a human lung carcinogen, responsible for 3,000 lung cancer deaths a year in U.S. non-smokers.²

1997: A National Cancer Institute monograph linked significant health effects, including coronary heart disease, nasal sinus cancer and Sudden Infant Death Syndrome with exposure to secondhand smoke.³

2006: The U.S. Surgeon General released the most comprehensive scientific report ever produced on the health harms of secondhand smoke. The report states that "massive and conclusive scientific evidence documents adverse effects of involuntary smoking on children and adults, including cancer and cardiovascular diseases in adults, and adverse respiratory effects in both children and adults." The report further concludes that there is no risk-free level of exposure to secondhand smoke.⁴

New research shows secondhand smoke is even more dangerous than previously believed.

2004: A Helena, Montana, study made a connection between secondhand smoke and heart disease. The study observed that hospital admissions for heart attacks declined by approximately 40 percent during a six-month period during which a comprehensive smoke-free air law was in effect, and rebounded after the ordinance was suspended.⁵ In 2005, a similar study conducted in Pueblo, Colo., confirmed the findings from Helena.⁶ As a result of the Helena study, the Centers for Disease Control and Prevention issued a warning, saying that people at risk of heart disease should avoid exposure to secondhand smoke.⁷

¹ The Health Consequences of Involuntary Smoking: A Report of the Surgeon General. U.S. Department of Health and Human Services. 1986.

² Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders. U.S. Environmental Protection Agency. 1992.

³ Monograph 10: Health Effects of Exposure to Environmental Tobacco Smoke. National Cancer Institute. 1999.

⁴ The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General. U.S. Department of Health and Human Services. 2006.

⁵ Sargent RP, Shepard RM, Glantz SA. Reduced Incidence of Admissions for Myocardial Infarction Associated with Public Smoking Ban: Before and After Study. University of California. 2004.

⁶ Bartecchi C, Alsever R, Nevin-Woods C, Thomas, WM, Estacio R, Bartelson B, Kriantz M. Reduction in the Incidence of Acute Myocardial Infarction Associated With a Citywide Smoking Ordinance. *Circulation*. 2006.

⁷ Pechacek TF, Babb S. How acute and reversible are the cardiovascular risks of secondhand smoke? *BMJ*. 2004.

The Facts About Secondhand Smoke



The 2006 Surgeon General's Report *The Health Consequences of Involuntary Exposure to Tobacco Smoke*

"The scientific evidence is now indisputable: secondhand smoke is not a mere annoyance. It is a serious health hazard that can lead to disease and premature death in children and nonsmoking adults."

— U.S. Surgeon General, Vice Admiral Richard H. Carmona, M.D., M.P.H., FACS

What is secondhand smoke?

Secondhand smoke is the smoke from the burning end of a cigarette combined with the smoke breathed out by smokers.

Why is secondhand smoke so dangerous?

Secondhand smoke is known to cause cancer in humans. It contains more than 4,000 chemicals, including more than 50 cancer-causing chemicals. You breathe in these chemicals when you are around someone who is smoking.

Is it okay if I am exposed to secondhand smoke for just a short amount of time?

There is no risk-free level of exposure to secondhand smoke. Breathing even a little secondhand smoke can be dangerous and harm your health.

What are the risks to my health if I am exposed to secondhand smoke?

Nonsmokers who inhale secondhand smoke at home or at work are more likely to become sick and die from heart disease and lung cancer. The U.S. Centers for Disease Control and Prevention issued an advisory warning all people with a heart condition or those predisposed to heart disease to avoid all indoor environments where smoking is allowed.

What can I do to avoid exposure to secondhand smoke and protect my health?

- Avoid public places that allow smoking.
- Choose restaurants and bars that are smoke-free. Thank them for being smoke-free.
- Let owners of businesses that are not smoke-free know that secondhand smoke is harmful to your health.
- Make your car and home smoke-free.

For more information, contact:
Division of Tobacco Prevention & Control
North Dakota Department of Health
600 E. Boulevard Ave., Dept. 301
Bismarck, N.D. 58505-0200

701.328.3138 or 800.280.5512 / www.ndhealth.gov/tobacco



Att # 21
2-6-07

MR CHAIRMAN AND COMMITTEE MEMBERS;

MY NAME IS MARY LU HORNING. I AM A GAMING SUBERVISOR AND CASHIER AT THE AMVETS CLUB IN BISMARCK. I HAVE BEEN A NONSMOKER FOR OVER 30 YEARS, AND I CHOOSE TO WORK IN A SMOKING ENVIRONMENT.

I EMPHATICALLY OBJECT TO THE ANTI-SMOKING COALITION AGAIN JEOPARDIZING MY JOB AND THOUSANDS OF OTHERS. THEY HAVE DONE ENOUGH DAMAGE TO NOT ONLY THE BUSINESSES THAT HAVE BEEN TARGETED, BUT ALSO TO INDIVIDUALS WORKING IN OR HAD BEEN WORKING IN THOSE BUSINESSES. WHERE ARE THE NONSMOKING CUSTOMERS PROMISED BY THE ANTI-SMOKING COALITION? WE ARE STILL WAITING FOR THEM. WE WERE COMPLETELY SMOKEFREE FOR TWO MONTHS, PRIOR TO OUR "SMOKING WALL" COMPLETION. THE MAJORITY OF THE CLUB IS STILL SMOKE FREE. IF THIS WALL HAD NOT BEEN BUILT, I KNOW THAT STAFF AND HOURS WOULD HAVE BEEN REDUCED. I AM NOT HAPPY AT SEEING THAT HAPPEN IF SMOKING IS BANNED IN THE SMOKING AREA OF MY JOB. I'VE WITNESSED THE PREVIEW AND IT IS UGLY. DURING THE 2 MONTH NONSMOKING TIME, OUR BUSINESS AND STAFF GRATUITIES SUFFERED BY OVER 65 PERCENT. OUR SMOKING REGULARS QUIT COMING IN. MOST WENT TO OTHER PLACES THAT COULD HAVE SMOKING AND SOME HAVE NOT YET RETURNED. "PEOPLE ARE CREATURES OF HABIT" IS NOT JUST A PHRASE, BUT HAS BEEN PROVEN BY CUSTOMERS GOING SOMEWHERE ELSE DURING OUR 2 MONTH BAN, AND NOT RETURNING AFTERWARD.

I TAKE OFFENSE TO THE COALITION AND THEIR FOLLOWING DICTATING ACTIONS OF INDIVIDUALS. I WORK AT A CLUB WHERE VETERANS WHO HAVE FOUGHT AND ARE FIGHTING FOR OUR FREEDOM ARE MEMBERS. WHO ARE THE MEMBERS OF THIS COALITION TO LIMIT THEIR AND MY VARIOUS FREEDOM. IF I LOSE MY JOB TO THE PROPOSED SMOKING BAN, WILL THE COALITION FIND ONE FOR ME THAT IS EQUAL TO MY CURRENT EARNINGS AT THIS ONE? PLEASE KEEP IN MIND THAT MY PHYSICAL HEALTH LIMITS MY PROSPECTS. I HAD TO QUIT MY SECOND JOB AT WALMART DUE TO THE PHYSICAL DEMANDS THAT ARE NOT IN THE JOB DESCRIPTIONS, BUT ARE EXPECTED. I AM NOT A YOUNG CHICKEN, BUT I HAVE WORKED HARD ALL OF MY LIFE. I LOVE MY JOB AND EVERYONE ASSOCIATED WITH IT. IF I LOSE MY JOB, I MAY BE FORCED TO GO ON DISABILITY. LET ME REMIND YOU, NONE OF MY LIMITATIONS ARE DUE TO BEING SUBJECTED TO A SMOKING ENVIRONMENT. AS WITH THE MAJORITY OF NORTH DAKOTANS, I LIVE PAYCHECK TO PAYCHECK. I DON'T NEED ANY OBSTACLES PUT IN THE WAY OF MY LIVELIHOOD.

ONE LAST ITEM, THE REVENUE USED BY THIS ANTI-SMOKING COALITION ORIGINATES WITH CIGARETTE TAX AND CIGARETTE COMPANIES. WHAT WILL THEY GO AFTER NEXT? LIQUOR, BEEF, MILK, GAS-HOG VEHICLES? AGAIN, WHERE ARE OUR FREEDOMS, THAT THIS COUNTRY WAS BUILT ON. I URGE YOU TO PLEASE OPPOSE THIS BILL, AND LET ME KEEP MY LIVELIHOOD. THANK YOU.

Att. # 22

Michael McMenamy
McMenamy's Tavern Grand Forks
President: Greater Grand Forks Hospitality Assoc.

I and We oppose Senate Bill 2164

Michael McMenamy

2-6-07

**Testimony of the North Dakota Medical Association
Senate Bill No. 2164, the ND Clean Indoor Air Act
February 6, 2007
Senate Judiciary Committee**

Chairman Nething and members of the committee, I'm David Peske, representing the North Dakota Medical Association. The Medical Association is the professional membership organization for North Dakota physicians, residents, and medical students.

The North Dakota Medical Association joins with the sponsors and the healthcare community in encouraging you to support SB 2164, the primary goal of which is to further the protection of our work force and the public from the negative impacts of tobacco smoke. The facts on tobacco and smoking as presented to date speak for themselves.

- The 2006 U.S. Surgeon General's study cites scientific evidence in concluding that there is no risk-free level of exposure to secondhand smoke. Secondhand smoke contains toxic chemicals and gases, including cyanide, formaldehyde, ammonia, benzene, carbon monoxide, toluene, and arsenic. Exposure to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary artery disease and lung cancer.
- Policy makers around the world are taking action to protect their workers and citizens. At least twenty-four states and jurisdictions, along with 577 or more municipalities, encompassing over 50% of the U.S. population, have enacted smoke-free laws or ordinances. At least 17 foreign nations will be smoke free by 2008.
- Four out of five North Dakotans do NOT smoke, and they want to protect their health. A 2006 survey of ND adults indicated that two-thirds support expanding the current statute to make all restaurants and bars smoke free, and 80% also indicated they would go to a bar or restaurant just as often or more often if all bars and restaurants are completely smoke-free. Smoke-free has become the norm, and is now accepted as the hospitality standard.
- A statewide study of tax revenues suggests there has been no negative economic impact on restaurant business in North Dakota since the 2005 Clean Indoor Air Act went into effect. New York City bars and restaurants increased their business by 9% after becoming smoke-free. The Surgeon General's report states that evidence from peer-reviewed studies shows that smoke-free policies and regulations do not have an adverse economic impact on the hospitality industry.

We urge the committee to support a Do Pass recommendation on SB 2164.

UK SUNDAY TELEGRAPH....

PASSIVE SMOKING DOESN'T CAUSE CANCER - OFFICIAL

**HEADLINE: PASSIVE SMOKING DOESN'T CAUSE CANCER - OFFICIAL
BYLINE: VICTORIA MACDONALD, HEALTH CORRESPONDENT
DATELINE" MARCH 8, 1998**

THE WORLD'S LEADING HEALTH ORGANISATION HAS WITHHELD FROM PUBLICATION A STUDY WHICH SHOWS THAT NOT ONLY MIGHT THERE BE NO LINK BETWEEN PASSIVE SMOKING AND LUNG CANCER BUT THAT IT COULD EVEN HAVE A PROTECTIVE EFFECT. THE ASTONISHING RESULTS ARE SET TO THROW WIDE OPEN DEBATE ON PASSIVE SMOKING HEALTH RISKS.

THE WORLD HEALTH ORGANISATION, WHICH COMMISSIONED THE 12-CENTRE, SEVEN-COUNTRY EUROPEAN STUDY HAS BAILED TO MAKE THE FINDINGS PUBLIC, AND HAS INSTEAD PRODUCED ONLY A SUMMARY OF THE RESULTS IN AN INTERNAL REPORT. DESPITE REPEATED APPROACHES, NOBODY AT THE WHO HEADQUARTERS IN GENEVA WOULD COMMENT ON THE FINDINGS LAST WEEK.

THE FINDINGS ARE CERTAIN TO BE AN EMBARRASSMENT TO THE WHO, WHICH HAS SPENT YEARS AND VAST SUMS ON ANTI-SMOKING CAMPAIGNS. THE STUDY IS ONE OF THE LARGEST EVER TO LOOK AT THE LINK BETWEEN PASSIVE SMOKING - INHALING OTHER PEOPLE'S SMOKE - AND LUNG CANCER, AND HAD BEEN EAGERLY AWAITED BY MEDICAL EXPERTS AND CAMPAIGNING GROUPS. YET THE SCIENTISTS HAVE FOUND THAT THERE WAS NO STATISTICAL EVIDENCE THAT PASSIVE SMOKING CAUSED LUNG CANCER.

THE RESEARCH COMPARED 650 LUNG CANCER PATIENTS WITH 1,542 HEALTHY PEOPLE. IT LOOKED AT PEOPLE WHO WERE MARRIED TO SMOKERS, WORKED WITH SMOKERS, BOTH WORKED AND WERE MARRIED TO SMOKERS, AND THOSE WHO GREW UP WITH SMOKERS. THE RESULTS ARE CONSISTENT WITH THERE BEING NO ADDITIONAL RISK FOR A PERSON LIVING OR WORKING WITH A SMOKER AND COULD BE CONSISTENT WITH PASSIVE SMOKE HAVING A PROTECTIVE EFFECT AGAINST LUNG CANCER.

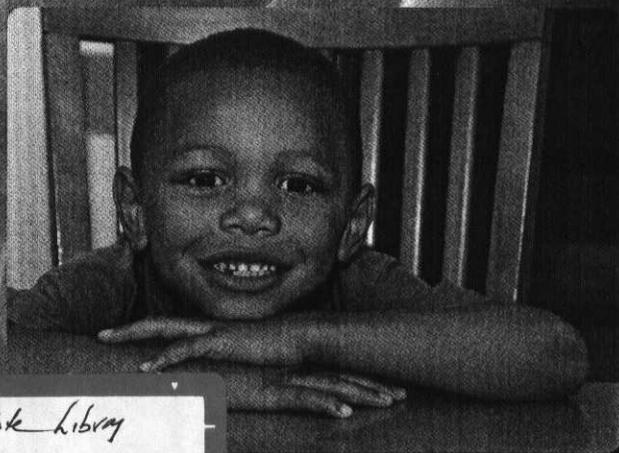
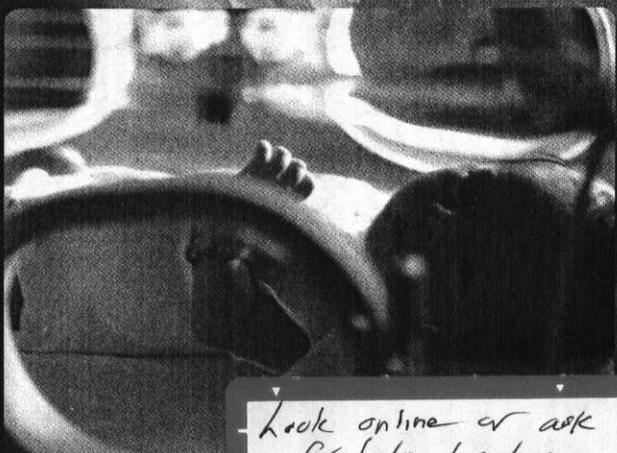
THE SUMMARY, SEEN BY THE SUNDAY TELEGRAPH, ALSO STATES: "THERE WAS NO ASSOCIATION BETWEEN LUNG CANCER RISK AND ITS EXPOSURE DURING CHILDHOOD." A SPOKESMAN FOR ACTION ON SMOKING AND HEALTH SAID THE FINDINGS "SEEM RATHER SURPRISING GIVEN THE EVIDENCE FROM OTHER MAJOR REVIEWS ON THE SUBJECT WHICH HAVE SHOWN A CLEAR ASSOCIATION BETWEEN PASSIVE SMOKING AND A NUMBER OF DISEASES."

DR. CHRIS PROCTOR, HEAD OF SCIENCE FOR BAT INDUSTRIES, THE TOBACCO GROUP SAID THE FINDINGS HAD TO BE TAKEN SERIOUSLY. "IF THIS STUDY CANNOT FIND ANY STATISTICALLY VALID RISK, YOU HAVE TO ASK IF THERE CAN BE ANY RISK AT ALL. "IT CONFIRMS WHAT WE AND MANY OTHER SCIENTISTS HAVE LONG BELIEVED, THAT WHILE SMOKING IN PUBLIC MAY BE ANNOYING TO SOME NON-SMOKERS, THE SCIENCE DOES NOT SHOW THAT BEING AROUND A SMOKER IS A LUNG-CANCER RISK.

READ MORE GREAT ARTICLES AND EIB WISDOM....
(...RIGHT HERE IN THE EIB ESSENTIAL STACK OF STUFF)

The Health Consequences of Involuntary Exposure to Tobacco Smoke

A Report of the Surgeon General



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The Health Consequences of Involuntary Exposure to Tobacco Smoke

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