

Good Afternoon, Chairman Lefor and members of the House Industry, Business and Labor Committee. My name is Neil Charvat, and I am the Director of the Tobacco Prevention and Control Program for the North Dakota Department of Health. I am here to provide testimony in opposition to House Bill 1152, relating to cigar bars and lounges.

Tobacco prevention and control efforts in North Dakota focus on guidance provided by the Centers for Disease Control and Prevention (CDC) *Best Practices for Comprehensive Tobacco Control Programs* (Best Practices). Best Practices provide evidence-based interventions to prevent tobacco product use initiation; increase quitting tobacco use; and reduce exposure to secondhand smoke. House Bill 1152 will create an exemption for North Dakota businesses to provide an environment that exposes the public, especially employees, to secondhand smoke in the workplace.

In November 2012, North Dakotans overwhelmingly approved Initiated Measure 4. This measure removed exemptions from the 2005 State Smoke-Free Law. The remaining exemptions mainly applied to bars, truck stops, and public lodging. The intent was to protect all North Dakota citizens from unnecessary exposure to secondhand smoke in indoor public venues. The 2012 North Dakota Smoke-Free Law is an exceptional public health policy achievement. It not only protects the public from the dangers of secondhand smoke exposure, but also addresses the emerging issues of the dangers of electronic nicotine delivery systems (ENDS), also known as e-cigarettes and vaping. The 2016 *E-Cigarette Use Among Youth and Young Adults: A Report of the Surgeon General* applauds the North Dakota 2012 Smoke-Free Law as a major policy success to protect our citizens. House Bill 1152 seeks a special exemption for one type of tobacco product; making changes to such an effective policy will lessen the ability to protect public health.

We have evidence that policies like this reduce death and disability in our communities. A research paper from the University of North Dakota, *Impact of a Comprehensive Smoke Free Law on Incidence of Heart Attacks at Rural Community Hospitals*, that studied the effects of smoke-free workplaces in Grand Forks cited:

Approximately 46,000 deaths from cardiovascular disease are associated with secondhand smoke exposure annually in the U.S.. This corresponds to roughly 150 deaths annually in North Dakota. Secondhand smoke, even in brief exposure, can increase risk of heart attack. Heart attack admissions fell by 30.61% as a percentage of total admissions after implementation of a comprehensive smoke free law, from 0.49% (83/16,702) to 0.34% (63/18,513).

A cigar bar, as proposed in this bill, will expose all employees and patrons to the dangers discussed above. Additionally, there would be secondhand smoke affecting the employees and patrons of other businesses if the cigar bar is in the same building.

According to the North Dakota Adult Tobacco Survey, cigar use by adults in North Dakota averages 4.67% (2015-2019). The North Dakota Department of Health does not differentiate between tobacco products like cigarettes and cigars. The three major types of cigars sold in the United States are large cigars, cigarillos, and little cigars. Cigars are not proven to be healthier or less dangerous than cigarettes. For every gram of tobacco smoked, there is more cancer-causing tar in cigars than in cigarettes. Cigar wrappers are less porous than cigarette wrappers and makes the burning of cigar tobacco less complete than the burning of cigarette tobacco. As a result, cigar smoke has higher concentrations of toxins than cigarette smoke. Smokers using cigars experience heart disease, cancer, and the other types of illnesses that cause the death of over 1,000 North Dakotan's per year¹.

House Bill 1152 allows for indoor smoking. The bill defines a lounge as "enclosed by solid walls or windows, a ceiling, and a solid door; and is equipped with a ventilation system by which exhausted air is not recirculated to nonsmoking areas and smoke is not backstreamed into nonsmoking areas." This language gives the appearance of mitigating the dangers of secondhand

¹ <https://cancercontrol.cancer.gov/brp/tcrb/monographs/monograph-09>

smoke indoors through ventilation. Ventilation systems do not work to protect the public from this danger. According to the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) in their position statement on the subject:

"At present, the only means of effectively eliminating health risks associated with indoor exposure is to ban smoking activity... No other engineering approaches, including current and advanced dilution ventilation or air cleaning technologies, have demonstrated or should be relied upon to control health risks from ETS [environmental tobacco smoke] exposure in spaces where smoking occurs... Because of ASHRAE's mission to act for the benefit of the public, it encourages elimination of smoking in the indoor environment as the optimal way to minimize ETS exposure."

In addition to cigar smoke, there is also concern that other products may be smoked in these facilities. House Bill 1152 states "A bar or cigar lounge meeting the requirements of this subdivision may permit the smoking of cigars purchased on the premises, but may not permit the smoking of any other product on the premises." There is no way to assure that the products being used in the facility are from the facility and the bill offers no consequence for violating any use of other smoking products.

House Bill 1152 provides definitions for the use of cigars that are not clear. The definition of cigars describes the product wrapped in whole tobacco leaves. Beyond that, the ingredients refer to what can be used for a binding agent and no additives other than water. Some cigar brands use flavorings, which raises the concerns that cigars are more appealing to youth. However, there is no requirement to post the actual ingredients, nor are there any proposed methodology to determine if these guidelines are being followed. This leaves any regulation of product ingredients up to the cigar production industry. There are no consequences for violating ingredient requirements allowing the industry to self-regulate. There is a weight requirement of these products "weighs at least six pounds per thousand count." While these requirements may seem like regulations, they have no practical implication for regulation.

Providing exemptions for one tobacco product may lead to additional exemptions for other tobacco products, such as hookah lounges, which are currently not allowed under the North Dakota Smoke-Free Law. Product exclusivity should not be equated with a legal exemption to smoke inside of a public place of business. The North Dakota Smoke-Free Law has been providing this legal level playing field for all businesses since 2012.

House Bill 1152 seeks to change the current smoke-free law to create places that put patrons, employees, and anyone in the immediate area at risk of sickness and death from secondhand smoke to provide an exemption for a niche business. Clean air remains the standard to protect health.

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

