

Senate Industry, Labor & Business Committee
Chairman – Sen. Jerry Klein
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Testimony

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HB 1386

Good morning Chairman Klein and members of the Senate Industry, Labor & Business Committee. Thank you for the opportunity to be here today. My name is Shaun Sipma, Mayor of Minot, and on behalf of our City, I am here today to testify in opposition to House Bill 1386.

The proposed legislation is a reaction to COVID-19 and the efforts to limit the spread when things were at their worst. This bill however comes with far greater implications and will in fact limit local governments in times of any crisis or emergency.

Section 1 outlines the prohibition on limiting hours of operations and capacity stating under item 1:

“A political subdivision, including a local health department or officer, may not limit or otherwise regulate the hours of operation or capacity of a private business or other nongovernmental entity, including a sole proprietorship or association.”

This legislation would tie the hands of local government in any emergency, not just in a pandemic, where life, health and safety are at risk.

Given the nature of flooding in North Dakota, I will start there. If, and when, evacuation orders are necessary to save lives, this bill would prevent the inclusion of any business in that order. An evacuation made necessary by an impending flood would in fact also limit any business’s hours in an evacuation zone.

But we do not have to just consider flood events. Chemical spills could also trigger evacuations, like the train derailment in January 2002 just west of Minot. A shelter in place order would in fact be limiting a business’s hours. Any natural disaster that results in water being limited or rationed would indirectly limit some business’s hours which would then be a direct violation of this proposed law. For the sake of public health let us focus on that and why sacrificing the health of the public is a far greater disaster.

In 2020 health officials quickly identified areas of substantial community spread of a disease that was in turn making its way then more rapidly to the at-risk and vulnerable population. Large community gatherings and certain sectors of business where people were disregarding health official’s recommendations to limit community spread were those key areas.

In the fall of 2020, North Dakota had the worst community infection rate and spread in the country. Locally, daily phone calls were taking place with health officials as the hospitals were on the brink and, in the case of Ward County, the morgue was full, as were all the funeral homes. In fact, emergency storage was being made in garages of funeral homes to respectfully stack the bodies.

Beds for COVID patients were not the issue at our local hospital, but rather available staff that were not infected themselves. My community was on the brink. It was the Statewide mask mandate along with guidelines to limit hours and seating in the sector that tracers identified as the super spreaders that turned things around.

I do not want, for any moment, to diminish the impact that these actions had on business owners or people who worked there. The impacts were far reaching and stretched through the community. The impacts were profound, substantially unfortunate, and unfair. As I testified earlier this session, when my home was destroyed by the 2011 Souris River Flood, I learned an extremely hard lesson, disasters do not discriminate, and they are never fair.

Individual freedom is talked about quite a bit when it comes to COVID-19, along with personal responsibility. The problem is when personal responsibility is disregarded, those individual choices drastically can and do impact public health.

Emergencies are easy to Monday-morning quarterback: from the reactions to the timing of the response. Did we all learn something about pandemic response? Absolutely we did. Prior to this most communities had a one-page response to disease and pandemic if they had a disaster response plan at all. Those plans are being rewritten with the lessons learned in 2020 and the continuation in 2021.

This legislation absolutely would tie the hands of local response to emergencies. I would propose that if this legislature feels it prudent to limit local response to local emergencies, especially public health, then the state should take on the responsibility of all public health concerns from disease prevention, outbreak response and all impacts from it. We cannot be serious about public health at local level if we are unable to respond to emergency situations.

Prior to March 2020, we looked to our local doctors and medical experts for all guidance on public health. Then a disease became politicized. That, in my opinion, is the worst course of action when it comes to dealing with public health: disregarding the advice of our local health experts based on political views of an issue.

As a City leader we want and need our community to be strong and vibrant. That carries through all aspects of public health and economics. All impacts are measured and weighed. The easiest solution is do nothing and watch the outcome become that much worse. Difficult times can call for difficult decisions. I sincerely believe in North Dakota. Local leaders were and are doing their absolute best for the overall well-being of the community.

I think many people are unaware of the impact of the pandemic on local leadership. There were so many days I would take phone calls from people on both sides of this politicized issue. There were those that called to accuse me of being tyrannical or power hungry. They perceived I was limiting their personal freedom by requiring they wear a mask when out in public. And there were those that called me a killer because I did not do enough to prevent the disease spread and their loved one is now dead.

I strongly urge a Do-Not-Pass recommendation on House Bill 1386. Thank you for your time and the opportunity to testify this morning. I would be happy to answer any questions that you may have.