

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1256

2001 HOUSE NATURAL RESOURCES

HB 1256

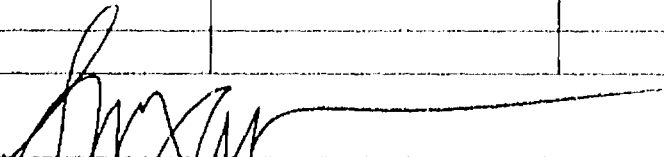
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1256

House Natural Resources Committee

Conference Committee

Hearing Date January 26, 2001

Tape Number	Side A	Side B	Meter #
2	x		1 to end
Committee Clerk Signature 			

Minutes:

Chairman Earl Rennerfeldt, Vice Chair Jon O. Nelson, Rep. Brekke, Rep. DeKrey, Rep. Droydal, Rep. Galvin, Rep. Keiser, Rep. Klein, Rep. Nottestad, Rep. Porter, Rep. Weiler, Rep. Hanson, Rep. Kelsh, Rep. Solberg, Rep. Winrich.

Chairman Rennerfeldt: I will open the hearing on HB 1256. Is there anyone here to testify in favor of this bill?

Rep. Joyce Kingsbury - District 16: (See written testimony). I urge you to give a Do Pass to HB 1256.

Rep. Porter: The common areas in nursing homes, hospital and resorts, that this bill would prohibit smoking in... Are you aware that Medicaid program buys cigarettes for people who are residents in nursing homes, since it is considered their home. That room with the TV is just like

your living room. Do you think the government should be telling people what to do in their living room?

Kingsbury: No I did not know. The common areas in nursing home, I did not realize they were smoking in their rooms.

Rep. Hanson: Do you know any city in ND that has an ordinance that prohibits smoking in a public building?

Kingsbury: I don't know all of them, but it is prohibited in city buildings and they are making those regulations, we went smoke free in all our city vehicles in Grafton.

Rep. Hanson: That is what I am getting at.

Rep. Droydal: I don't smoke. What you reported is true. I agree with every thing you presented. I have one major concern to start with... If I have a building I bought and paid taxes on and I want some of my customers to come in and smoke, I want to make that decision, not big brother make it for me. Therein lies my first problem. How do you respond to someone like me?

Kingsbury: From reports of other owners of business, they would just as soon have that legislation. If you go to section three, non public workspaces. If you have a business you can negotiate a written smoking policy subjective to the State Health Department and your employers would have to agree with that.

Rep. Droydal: I have one other scenario I would like you to respond to. I was on the Board of a Nursing Home and smoking was an issue there. We had elderly people who had smoked all their lives and paying the price for it. In the case of my mother, if I went to tell her no more smoking, I would have gotten spanked at the age I am now. Also the fact that she had one more cigarette wasn't going to make a bit of difference on the rest of her life. Where do we draw the line?

Kingsbury: A good question, hard to answer. It is just slowly coming across. Non smokers are trying to get some areas where they don't have to be subjected to this second hand smoke.

Rep. Solberg: It is my understanding that restaurants and cafes that have a designated smoking area can no longer have that?

Kingsbury: Yes, there would be no smoking in restaurants, it excludes bar areas.

Rep. Solberg: I am a reformed smoker. I hate smoke. I always ask for nonsmoking room and when I go to a buffet we go into the nonsmoking area. We understand that people want to go to have their coffee and want a place to smoke. Wouldn't this impact the revenues of the cafe owners?

Kingsbury: From the written testimony of restaurant owners, they don't dare go out and do this themselves. Some of them who have feared losing customers gained others and have less expensive in cleaning and burn holes. They like it.

Rep. Galvin: This problem seems to have taken care of it self. I sit down with about 10 people, and none of them smoke. Almost anyplace I go, you rarely see anybody smoking anymore. I am of the belief we shouldn't have any more laws than necessary and I think this is a law that is no longer necessary. I think it is taking care of itself.

Kingsbury: The problem is the second hand smoke drift. Even if you have non smoking areas, there is smoke drift that stays in the area for up to two weeks, it is a health problem.

Rep. Galvin: If nobody is smoking, there is no smoke to drift. That is my point.

Vice Chair Nelson: Curious about the legislation. Is this model legislation from other states, if it is, what state does it model?

Kingsbury: This bill is the same bill brought before the 55th Legislative Assembly. We took out a few areas here and we added "the doorways" of buildings. One area where I would like to

propose an amendment. In Section 2, line 17 -- within one hundred feet of any doorway, there I would like to interject, "any primary doorway". It gives the non smokers a door way to walk through that would be smoke free.

Chairman Rennerfeldt: Any questions of the committee?

Rep. Porter: Rep. Kingsbury, have you ever smoked?

Kingsbury: Occasionally, way back.

Gil Herbel - District 16: I am here today in support of HB 1256. I have no problems with people who choose to smoke, I just don't like sharing second hand smoke. With ND receiving approximately 860 million dollars from the Tobacco settlement. We have an obligation to protect those who chose not to smoke. I don't like sitting in a non smoking section of a cafe and having the smoke drift in from the smoking area. In many instances you need to pass through a smoking area to get to a non smoking area. My father smoked and died of cancer. My mother, brother and sister died of cancer and all of them were non smokers. I wonder what the effect of second hand smoke had on my family? With 90% of all smokers beginning to smoke before the age of 19, we as legislators have a chance to set a positive example for the state by passing this legislation. I challenge you to take a bold step here. There are no positives for smoking. Please pass HB 1256.

Chairman Rennerfeldt: Any questions of the committee?

Rep. Porter: I remember the provision in the tobacco settlement that had to do with imposing any future taxes on tobacco products and imposing any stricter laws then were currently in place for tobacco use at the time the settlement was signed.

Herbel: I can't respond to that, I can't recall.

Chairman Rennerfeldt: Any further questions of the committee? Anyone else to testify in favor of this bill?

Elizabeth Hughes - ND Society for Respiratory Care: (See written testimony). In favor of HB 1256.

Susan Kahler - American Lung Association: (See written testimony). In favor of HB 1256.

Rep. Porter: In Mandan we have a bar that is smoke free, when I drive by it I don't see a waiting line outside to get in. I drive by other bars and there are people in there also. If the environment is there to have smoke free environment, I would think they would have to be adding on to the smoke free bars and the others would be going out of business.

Kahler: In regards to the statement of the smoke free bar in Mandan, this bill excludes bars. I have also been in that bar you're discussing and it has been pretty populated.

Rep. Droydal: We pass a lot of laws sometimes and unfortunately no body bothers to enforce them. In the past we have passed a few laws and they seem to be working. The business owners have made smoking areas, and so forth, it is not perfect, but neither are we. I am concerned that this one is overbearing, is it getting to the point that it is so overbearing that it is not enforceable? It will infringe on property and owners rights. Case in point, the youth, we have millions of laws saying it is illegal for them to smoke, yet 40% of them are smoking. Are we going to far?

Kahler: The law before us today is to establish an environment consistent to be smoke free for other people who suffered lung disease. They have a right to be in those environments without harm caused to them.

Rep. Droydal: Whose rights are more important? There's where we have the problem balancing it out.

Kahler: You have to decide what you want to do on this issue. It is my right as a citizen to a environment free of a class A carcinogens.

Rep. Keiser: From a legal standpoint, the state of ND entered as a partner into the Federal lawsuit that declared that smoking was dangerous and harmful to health. We won the law suit and are receiving money as a result. ND has already declared and is receiving compensation for that. So for the state of ND not to address the issue in public areas of second hand smoke and the loss of Sovereign Immunity by the State of ND. What position does that place the state in?

Kahler: I would have to rely on someone else on the law and that settlement.

Chairman Rennerfeldt: Any further questions of the committee?

Linda Kohls - American Cancer Society: We support non smoking legislation in public places. Workers huddled outside office buildings smoking is a common sight in California. That is because by 1990 ordinances banning smoking in the workplace had been adopted by 197 California localities. The idea was to protect non smokers from the second hand smoke of their coworkers. A new study in the American Journal of Public Health says that it wasn't just the non smokers that benefited, research shows it increased smoking cessation among workers. 24.4% quit smoking within 6 months of the tobacco ordinance. We encourage you to protect the non smokers in this state.

Keith Johnson - NDPHA & NDEHA: I just want to address a couple of questions the committee was asking. Rep. Drovdal, your property rights questions are pertinent. I would place them in the context of a building open to the public, they provide wheelchair access, bathrooms, a safe work place. I would submit a provision of a smoke free environment would be on that same caliber and no more and infringement than any of those other issues. Rep. Galvin, you and I sit at the same table and we are among the one group not smoking as much any more. If you take a look at the women's table and the young peoples table, they are smoking more. It is not about the right of a person to smoke, but the right of a person to be protected from that smoke. This bill does a good

job of balancing public against private rights. Rep. Keiser, your point about the state of ND accepting money is well taken, can we say yes it is dangerous and not do something about it?

Rep. Galvin: I agree you shouldn't breathe smoke, would you feel the same way about loud music?

Johnson: Yes, we do have loud music ordinances in virtually every city in ND.

Rep. Galvin: Do they enforce them anyplace?

Johnson: Yes according to my son's friends.

Vice Chair Nelson: You said the state of ND is doing nothing to prevent smoking. Do you stand by that statement?

Johnson: I do not stand by that statement, we have the present law. This amendment we are looking at now is quite a bit cleaner and more enforceable now. It makes it more likely the laws we have now will be enforced. The state of ND has passed some laws and you know the history of enforcement of those laws and you are seeing the results.

Vice Chair Nelson: That is the crux of my question, the laws to prevent teen smoking have not worked. By piling on more laws is that going to change anything? As far as cutting down smoking is this going to be any more helpful?

Johnson: I don't believe this law is intending to cut down on smoking, but to protect the non smoking public from the effects of the smoking public. In some cases we just used some inappropriate measures.

Chairman Rennerfeldt: Any further questions of the committee?

June Herman - American Heart Association: I am here to support HB 1256. (See written testimony).

Vice Chair Nelson: The Rolette County case you cite, wasn't the courthouse in violation of a 1977 law already in existence?

Herman: Yes, that is true.

Chairman Rennerfeldt: Any further questions of the committee? Anyone opposed to HB 1256?

Bill Shalhoob - ND Hospitality Assn.: We do oppose HB 1256. (See written testimony).

Rep. Nottestad: When the prime sponsor gave her presentation, she stated that a number of restaurants want to go smoke free, but can't in fear of retaliation they don't dare go that way, they would rather see a bill of this sort go through. Have any of these people had these discussions with you?

Shalhoob: Not that I am aware of, I am aware that several restaurants have elected to go nonsmoking in response to their customers demands. But no one has come to me and said please be in favor of this bill.

Rep. Kelsy: What would you say would be a solution to the availability of non smoking hotel room's. You say the market determines the percentage of smoking and non smoking. What would your solution be to this problem?

Shalhoob: I would hope would see that you get a non smoking room. If we look at the history of this, we started out 8 years ago with 20% non smoking rooms, and now 70% are non smoking. Demand is creating more. Hotel operators are trying to find the fine line between how many smoking and non smoking rooms to offer. We try to balance the demands.

Chairman Rennerfeldt: Any other questions of the committee? Anyone else opposed to this bill?

Russ Hanson - ND Retail Association and ND Petroleum Marketers: I support Bill Shalhoob's statements on this legislation particularly the 100 foot section on page 3, section 2. My other

Page 9
House Natural Resources Committee
Bill/Resolution Number HB 1256
Hearing Date January 26, 2001

concern is section 4, page 5, where the owners are charged with the additional responsibility of enforcing this law. I support a Do No Pass.

Chairman Rennerfeldt; I will close the hearing on HB 1256.

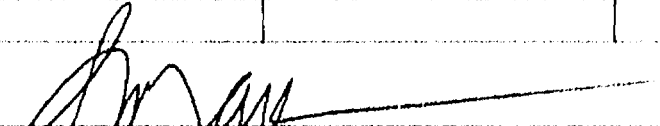
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1256

House Natural Resources Committee

Conference Committee

Hearing Date February 1, 2001

Tape Number	Side A	Side B	Meter #
3	x		4030 to 5193
Committee Clerk Signature 			

Minutes:

Chairman Earl Rennerfeldt, Vice Chair Jon O. Nelson, Rep. Brekke, Rep. DeKrey, Rep. Droydal, Rep. Galvin, Rep. Keiser, Rep. Klein, Rep. Nottestad, Rep. Porter, Rep. Weiler, Rep. Hanson, Rep. Kelsh, Rep. Solberg, Rep. Winrieh.

Chairman Rennerfeldt: Let's take the smoking bill, HB 1256. Rep. Kingsbury left some amendments with me. I will pass them out. We insert them on page 3, line 17, after the word any we insert the word primary.

Rep. Porter: I would move the amendment.

Rep. DeKrey: I second.

Chairman Rennerfeldt: Any discussion on amendments. All in favor of the amendment signify by saying Aye. Opposed? Amendment carries.

Rep. Droydal: I move a Do Not Pass as amended.

