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Diana G. ...
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10/2/03
Date

2003 HOUSE JUDICIARY

HB 1171

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1171

House Judiciary Committee

Conference Committee

Hearing Date 1-27-03

Tape Number	Side A	Side B	Meter #
1	xx		36-end
1		xx	0-15
Committee Clerk Signature <i>A Penrose</i>			

Minutes: 11 members present, 2 members absent (Rep. Maragos and Rep. Onstad)

Rep. Kretschmar, acting chairperson: We will now hear testimony on HB 1171.

Rep. DeKrey: Explained the bill; all we are doing is to raise the age for buying tobacco to 21 in the state of North Dakota. It doesn't change any of the possession laws.

Rep. Klemin: On pg 2, subsection 4, is there a flat fee of \$25 penalty.

Rep. DeKrey: Yes.

Rep. Bernstein: How much revenue of sales will be lost to the other states where the age limit is still 18. If there anyway to figure that out.

Rep. DeKrey: I talked about getting a fiscal note, but we don't really know how much effect it's actually going to have.

Rep. Kretschmar: Is there a penalty on the seller, who sells to a minor?

Rep. DeKrey: Yes, if they knowingly sell to a minor. If it happens enough times, you can actually have your license revoked.

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Rep. Delmore: It seems like there is a lot of emphasis put on the people who sell tobacco, if I buy and I'm 20 years old, is there a penalty for me as well, not only for buying but for smoking if it's illegal.

Rep. DeKrey: There is no penalty for smoking because it doesn't change any of the possession laws. You can buy it anywhere else but ND, and still have it on you and still smoke it and not be in violation of the law.

Rep. Delmore: How is that really going to deter from me, especially in an area like Fargo, Grand Forks, Wahpeton, where I can easily drive across the bridge and purchase these products.

Rep. DeKrey: The only deterrent it is going to have that it is inconvenient to drive. It may help the people living in the interior of the state. The bill is an alternative to the Governor's bill.

Rep. Delmore: Are there any other states that do this.

Rep. DeKrey: No.

Rep. Klemin: How do you prove a violation of this bill. If possession is not illegal, and only the act of purchasing it is illegal.

Rep. DeKrey: By the AG office doing a sting operation on a retailer.

Rep. Klemin: That would be a violation on the part of the retailer, but how do you prove a violation by a person who does it.

Rep. DeKrey: I guess if ND would have a stamp on the bottom of each package, and you have a pack of ND cigarettes.

Rep. Klemin: I guess I am trying to reconcile section 2a and 4. It is a non-criminal offense for an individual under 21 to purchase cigarettes, and then section 4, an individual under 21 found to have violated subdivision a of subsection 2 must pay a fee of \$25. I guess the only way I can see

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that happening is if you catch them in the act of buying, because possession itself is not the violation subject to the \$25 fee. How do you prove a violation by the minor unless you catch them in the act?

Rep. Bernstein: Was there an incidence that precipitated this, or just an idea.

Rep. DeKrey: Just an idea that got a lot of positive response until I put the bill in.

Rep. Kingsbury: Just commenting on this violation under the age of 21. There is a law now, that under the age of 18 that if you're caught smoking, you have to pay the fine.

Rep. DeKrey: Yes.

Rep. Galvin: What is the age of an adult, if an 18 year old can go to war, how can we increase the age to 21. Have you had discussion on this matter.

Rep. DeKrey: The point is that 18 is an impressionable age group. If you can get a kid to 21 or 22 and they haven't started smoking, the likelihood is that they won't start.

Rep. Kingsbury: Do you think that this will help the person selling them to kids, to help determine age a little better.

Rep. Klemin: So it would not be a violation to give somebody tobacco products.

Rep. DeKrey: The major way that kids are getting tobacco now, is that their parents are giving it to them. We wouldn't want to make parents responsible.

Rep. Boehning: What is the amount of fines that have been levied on the 18 year old and younger crowd. I'm sure you could get that from the AG's office, but I don't have them.

Rep. Kretschmar: Thank you. Anyone else wishing to testify in support of HB 1171.

Kathleen Mangskau, Tobacco Progrm. Admin. of ND Dept of Health: (see attached testimony)

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We would support the age of 19.

Rep. Eckre: Why is the rate of smokers so high.

Ms. Mangskau: ND ranks among the highest for a number of reasons. We haven't developed comprehensive programs to educate the children.

Rep. Eckre: ND hasn't put as much into education about the dangers of smoking as other states.

Ms. Mangskau: That is true to some extent. However, it goes beyond education. It also is putting in place policies that support no tobacco use.

Rep. Eckre: Going back a ways before the last 20 years, when there has been such a push on not using tobacco, was there studies done to show what % of ND youth's smoke back in the 1970's, compared to the early 2000's. Were we high back then compared to other states.

Ms. Mangskau: ND has tracked tobacco use since the 1980's and during the '80s and early '90s, we saw an increase in tobacco use among the youth in our state. We have been trying to educate and kids and the public about the dangers of smoking.

Rep. Delmore: Where I teach, this training has become a major part of the health curriculum, and I don't agree that we are not educating the youth. I think schools across the state, and health classes, which we're now providing, are doing an excellent job with students. What beyond that do we really need to do if that message has gotten across to every single student in school.

Ms. Mangskau: I wasn't saying that schools weren't providing education, they are; we have programs in more schools due to a grant we received. In addition to educating students, we need to have policies, not only in schools, but in communities to support the no tobacco use; to keep visitors, faculty, etc. from smoking in schools, etc.

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