

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1269

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2003 HOUSE HUMAN SERVICES

HB 1269

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1269

House Human Services Committee

Conference Committee

Hearing Date January 20, 2003

Tape Number	Side A	Side B	Meter #
2	x		26.5 - 50.1
Committee Clerk Signature <i>Sharon Penfold</i>			

Minutes:

Rep. Porter appeared as prime sponsor with written testimony stating it is unfair to companies who went in on the master settlement to begin with. The master settlement created an unlevel playing field amongst companies and feels it needs to be leveled out, creates an unfair competitive advantage.

Doug Barr, Litigation Attorney with the Attorney General's Office appeared in support with proposed amendments. Stating that the statute Chapter 51-25 basically does is that if the party is not part of the master settlement agreement, they have to put into an escrow account each year a certain amount of funds based upon their sales in ND. Those funds continue to be theirs but in that escrow account for a certain amount of time so that if the State or some other party from ND sues them, we are assured there is a fund upon which recovery can be made. The concern is that a lot of these companies come and go in 2 or 3 years and if they put out a product that someone gets harmed from, there is no place to go for recovery.

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House Human Services Committee

Bill/Resolution Number HB 1269

Hearing Date January 20, 2003

The amendments mean that if you don't comply with ND Law, you cannot do business here, basically do what you want, but you need to comply with ND Law.

Questions from the committee on how would this affect the sale on the Reservations and what is a dealer vs. distributor on Reservations (response both are licensed and are retailers in the State)

Is the bulk going to the Reservations and that a distributor may pick up a lot of product but distributed elsewhere. How many MPM's are we looking at (response 18, 6 are not in compliance, the one's overseas are harder to get to come into compliance)

Gary Anderson, Director for Sales and Special Taxes for the Tax Dept. appeared to answer questions and in support of this bill stating that one of the difficulties in regard to the Tribal sales, is being sold in ND are products being purchased by ND wholesalers, although its not taxed, its going through our wholesales and doesn't prevent any of our Indian Retailers from purchasing products from outside the state and its that product that is being shipped across the state line directly to the Reservation, which is regarded as interstate commerce sale and the State of ND is preempted by federal law from interfering with that shipment of product in. So in effect we lose our jurisdiction if we wanted to try to apply tax to that transaction.

No opposition.

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1269

House Human Services Committee

Conference Committee

Hearing Date January 27, 2003

Tape Number	Side A	Side B	Meter #
1	x		3.4 - 10.4
Committee Clerk Signature <i>Sharon Pennington</i>			

Minutes: Doug Barr of the Attorney General Office appeared on behalf of the committee stating he would support an emergency clause as noted in the testimony of last week. One of the purposes of this bill is to have those who are not compliant with ND law to fire, discontinuing selling in ND. Some of them have been out of compliance with ND Law for a number of years.

Rep. Niemeier asked what the master settlement was.

Explanation: One of the specific concerns, 2 sessions ago, ND adopted a law that requires those who are not parties to the U.S.A. to put a statutory amount of money into an escrow account so that those funds were available if those individuals are sued based upon their sale of product. A lot of these companies come, market their product, do the damage then disappear and there is no way to get relief.

Rep. Pollert asked what the current statute is.

Answer: This is not a tax, the funds are theirs but it is put into an escrow account, if they pull it out and are not sued, they can take it out when they leave.

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House Human Services Committee
Bill/Resolution Number HB 1269
Hearing Date January 27, 2003

Rep. Devlin moved the amendment by Attorney General's Office and add emergency clause,
send by Rep. Weisz. 13 - 0 - 0

Rep. Porter moved a DO PASS as AMENDED, second by Rep. Wieland. 13 - 0 - 0

Rep. Porter will carry the bill.

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FISCAL NOTE
 Requested by Legislative Council
 03/06/2003

Amendment to: HB 1269

1A. **State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

If enacted, Engrossed HB 1269 with Senate amendments will likely have little or no fiscal impact as users of the prohibited brands of tobacco products will switch to other brands and continue to pay all required taxes.

3. **State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

A. **Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

B. **Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Kathryn L. Strombeck	Agency:	Tax Department
Phone Number:	328-3402	Date Prepared:	03/07/2003

Lu Costa Rickford 10/2/03
 Operator's Signature Date

