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Jolanta Rickford
Operator's Signature

10/6/03
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1408

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Yolanda Richardson
Operator's Signature

10/6/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1408

House Industry, Business and Labor Committee

Conference Committee

Hearing Date February 3, 2003

Tape Number	Side A	Side B	Meter #
2	X		4475-end
2		X	0-3903
Committee Clerk Signature <i>Elizabeth R. Frier</i>			

Minutes: **Chair Keiser:** Opened hearing on HB 1408

Rep. Kingsbury: Supports with written testimony. Offered amendment to strike section 3.

Rep. Ekstrom: Does this eliminate the smoking room in the Capitol? Rep. Kingsbury said this is not addressed in the bill.

Rep. Ruby: Why are bars excluded? Are the employees not important? Rep. Kingsbury said this is just the first step.

Rep. Johnson: In clarification of section 2, Rep. Johnson asked about wedding dances that are held at Fraternal establishments and whether or not smoking would be banned because the renters are usually not members. Rep. Kingsbury did not seem to know.

Rep. Severson: Asked about small communities where the restaurant may be the only establishment and whether or not she knew the financial impact on a community. Rep. Kingsbury said this does not apply to bars. Rep. Severson then asked about restaurants that do not sell alcohol and Rep. Kingsbury said it depends on the layout of the building.

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La Costa Richardson
Operator's Signature

10/16/03
Date

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Rep. Kasper: Asked for definition of "primarily or exclusively" on page 4 (lines 1 and 2). Rep. Kingsbury said it depends on the license. Also noted that financially you can see where they get most of their money. Rep. Kasper then asked if the intent is to exempt on licenses or the percentage of either food or beverage they sell. Rep. Kingsbury said neither was defined in the bill.

Rep. Kasper reminded the committee that in ND there are classes of licenses and that is based on percentages of to liquor.

Rep. Froseth also mentioned that many licenses are controlled by city ordinances. He then asked if deleting lines 13-19 on page four would allow smoking at extracurricular events at schools. Rep. Kingsbury did note that many schools are used for community events.

Rep. Severson: Asked for information on communities who have gone smoke-free. Rep. Kingsbury said she will let others address that issue.

Rep. Dosch: Asked what the liabilities to the employer are if someone comes back with medical issues concerning second hand smoke. Rep. Kingsbury did not have any information on that.

Patti Lewis (ND Hospitality Assoc.): Testimony from Diane Schatz (Minot) who had to close her diner when Minot went smoke-free. Minot has lost about 4% of their business due to the smoking ordinance. Lewis feels this is a property rights issue. No one is forcing you to go out to eat. And no one is forcing these workers to work in a smoking environment. Lewis mentioned that fraternal organizations have to pay a federal excise tax and are able to have an open door policy. Grey area with the amount of food provisions.

Rep. Ekstrom asked if Lewis has seen studies on secondhand smoke and restaurant workers. Lewis has not seen specific numbers. Rep. Ekstrom then asked about leveling the playing field.

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If other states' did this, would she support it? Lewis said the bigger issue is the private property rights issue. You have to be fair. If you close the bar off from the restaurant, you will lose that bar crowd to another bar owner.

Rep. Severson asked how many other states do this. Lewis answered that she does not know for sure, but does know that CA and NY definitely do.

Rep. Thorpe wanted to know who canceled the lease contract of the Schatz diner. Was it the Schatzes or the property owners. Lewis said she is not privy to that information.

Bill Hixson (representing his sister who owns Peacock Alley): Restaurant is smoke-free, but you have to walk through the bar to get to the door. The ventilation system is shared. This is a historic building and they can not change the ventilation system. Sidelines is considered a restaurant, but most think of it as a bar.

Rep. Kasper asked if the exclusions on page four would apply to Peacock Alley. Hixson does not think so because you have to walk through the bar to get to the restaurant. He reads it as that the Peacock would not be exempt.

Rep. Keiser noted that ND has a "restaurant" distinction and that Amoco in Jamestown is classified as a restaurant because they have a few seats.

Russ Hanson (ND Retailer Assoc. & ND Petroleum Marketers Assoc.): Noted that in many small towns, the C-stores are gathering places and restaurants.

Rep. Ekstrom asked for statistics on how many of the retailers outlaw smoking. He did not have a specific answer. Cannot recall walking into a retail store where by policy it was allowed.

Rep. Klein asked the cost of separate air systems. Hanson did not know, but it would be fairly costly. Could get that information for the committee.

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Rep. Keiser asked if there would be any amendments that would make this bill acceptable.

Hanson said they concur with Lewis that this is a private privacy issue.

Ken Wangler (ND Dept. of Health): Neutral with written testimony and amendments

Rep. Ekstrom: Asked for stats on restaurant workers and secondhand smoke. Wangler had none.

Rep. Ruby: Can a ventilation system adequately move air if there is a provision that a door needs to be placed between smoking and nonsmoking areas? Wangler does not believe an enclosure without a door is better than no door. Rep. Ruby then asked if employees are well enough protected in the restaurants. Wangler noted that is a Workers' Comp issue.

Rep. Froseth asked about the present law and "smoking areas" in restaurants. Wangler is not familiar with the law and not sure if there are air barrier or physical barrier requirements.

Rep. Keiser asked if the Health Department sees a problem with putting in a door and having only one ventilation system. Wangler said the amendments they propose would take care of that. Two isolated systems would be better.

Lori Brierley (Dir. of Tobacco Prevention-Minot): Neutral with written testimony

Rep. Kasper: Asked if Minot has polled restaurants concerning increases or decreases in sales since the ban or if restaurants liked the ban. Brierley answered that a poll has not been done yet. Restaurants have called to say they are pleased. She feels the real acid test will be the tax receipts. The first year just ended and the preliminary data looks good.

Rep. Boe: Asked if we need to achieve a perfect solution. Brierley said that tobacco prevention as a whole is an incremental issue, so any achievement is helpful.

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Rep. Keiser asked about the smoking room issue. Wondered why some restaurants decided to put in smoking rooms and other did not. Brierley said there was no formal follow-up on the issue, but most businesses could not afford to put in a smoking room and chose to go smoke-free. Most restaurants had to do a cost/benefit analysis.

Rep. Klein asked what the cost of a smoking room is and Brierley said she did not know, but could get the information.

Chair Keiser closed hearing on HB 1408

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Jo Costa Rickford
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10/16/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1408

House Industry, Business and Labor Committee

Conference Committee

Hearing Date February 11, 2003

Tape Number	Side A	Side B	Meter #
1		X	400-1930

Committee Clerk Signature *Elizabeth R. Fier*

Minutes: **Chair Keiser:** Opened discussion on HB 1408.

Rep. Ekstrom: Passed out amendments and described them.

Rep. Boe: Asked if this still allows smoking in bars. Rep. Ekstrom said that is still permitted.

Rep. Froseth moved to adopt the amendments. Rep. Ekstrom seconded the motion.

Rep. Froseth: Supports the amendment because it makes a better bill, but he will oppose the bill. The state has come a long way with public smoking. This should be left up to the cities.

This is a restriction on public enterprise.

Rep. Ekstrom: Supports the bill. It has been proven that workplace smoking brings about liability to restaurant owners and that is coming our way.

Rep. Ruby: Understands the argument, but in Minot, the waiters and waitresses were disgusted with the ban. Even when you have a separate room, you still have to bring the food through the door.

Voice vote on the amendment. Amendment carries.

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Rep. Boe: Are we trying to make this 100% acceptable? Would like to see this bill lessen smoke at a tolerable level. Let's make this bill more workable next session.

Rep. Nottestad: Supports the bill because he has had restaurant owners in Grand Forks ask for it.

Rep. Ruby: Noted that bars and restaurants can always choose to be smoke-free. If there is a demand, they will change.

Rep. Klein moved DNP as amended. 2nd by Rep. Froseth

Vote: 9 Yes 5 No 0 Absent and not voting **Carrier:** Ruby

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Christa Richford
Operator's Signature

10/16/03
Date

