

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1434

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

To Costa Richardson
Operator's Signature

10/16/03
Date

2003 HOUSE FINANCE AND TAXATION
HB 1434

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Yolanda Richardson
Operator's Signature

10/6/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1434**

House Finance and Taxation Committee

Conference Committee

Hearing Date February 5, 2003

Tape Number	Side A	Side B	Meter #
1	X		34
Committee Clerk Signature <i>Janie Stein</i>			

Minutes:

REP. BETTY GRANDE Introduced the bill. The bill deals with issuing of sales of tobacco to minors. She stated they dealt with this with the alcohol and this will work somewhat the same.

JOHN OLSON, REPRESENTING PHILIP MORRIS USA Testified in support of the bill.

This bill deals with the internet. He explained all the sections of the bill. He presented amendments which were prepared by Philip Morris. The bill deals with internet sales of cigarettes to minors.

JACK HOLLERAN, VICE-PRESIDENT OF BRAND INTEGRITY AT PHILIP MORRIS USA Testified in support of the bill. See written testimony.

JOHN QUINLAN, NORTH DAKOTA STATE TAX DEPARTMENT. Testified in a neutral position. He stated they had a couple of concerns. In Section 4, regarding the registration of tax permits from the attorney general's office. North Dakota law requires wholesalers and

Page 2
House Finance and Taxation Committee
Bill/Resolution Number HB 1434
Hearing Date February 5, 2003

retailers in North Dakota to be licensed with the North Dakota Attorney General's Office, that might be where this provision came from.

Section 5, there is a concern, placing the burden on out of state wholesalers and retailers shipping the goods in, we may have enforcement problems. The Quill case, which was the sales tax case, was heard by the federal Supreme Court, have indicated that it is illegal to tax or require registration of goods shipped as interstate commerce. We feel that may be a problem in this particular bill. I have not yet seen the amendments, but it is something to be considered.

With no further testimony, the hearing was closed.

COMMITTEE ACTION Tape #1, Side B, Meter #11.6

Discussion was held relating to Section 5 of the bill, which committee members felt needed to be amended. Also, there were concerns voiced regarding enforcement issues.

REP. BELTER Decided to act on the bill at a later date.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Operator's Signature

Sal Costa Rickford

10/16/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1434

House Finance and Taxation Committee

Conference Committee

Hearing Date February 12, 2003

Tape Number	Side A	Side B	Meter #
1	X		0
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

COMMITTEE ACTION Tape #1 - did not record during committee action.

JOHN WALSTAD, LEGISLATIVE COUNCIL STAFF Appeared before the committee to explain two sets of amendments which Rep. Drovdal and Rep. Belter presented to the committee. Mrs. Walstad stated there would be problems with Section 4 in Amendment #30631.0201 and Section 6 of Amendment # 30631.0202 and Section 1 of the bill. Both amendments would not work together. He stated he was involved with the drafting of Amendment #30631.0202 which came from a law in Oklahoma.

REP. DROVDAL Explained his amendments stating Amendment 30631.0201 would make the North Dakota citizens who are ordering the tobacco products responsible for meeting all requirements. This amendment also replaces the attorney general with the tax commissioner.

JOHN WALSTAD Stated that Amendment #306310202 would make delivery of the products so distasteful to carriers, they would refuse to do it.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

John Costa Richardson
Operator's Signature

10/16/03
Date

Page 2
House Finance and Taxation Committee
Bill/Resolution Number HB 1434
Hearing Date February 12, 2003

During discussion committee members commented whether there was any merit to have this law the same as the alcohol law.

REP. FROELICH Stated that some of the tribes were stamping cigarettes and charging a tax but some were not.

REP. DROVDAL Made a motion to adopt Amendment #30631.0201 as presented.

REP. IVERSON Second the motion. Motion carried by voice vote.

REP. DROVDAL Made a motion for a **DO PASS AS AMENDED**

REP. CLARK Second the motion. **MOTION CARRIED**

10 YES 3 NO 1 ABSENT

REP. DROVDAL Was given the floor assignment.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

La Costa Rickford
Operator's Signature

10/16/03
Date

FISCAL NOTE
 Requested by Legislative Council
 02/14/2003

Amendment to: HB 1434

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.

Engrossed HB 1434 addresses the sale of tobacco products through the mail, the Internet, or any other telecommunications method. The bill imposes the wholesale cigarette and tobacco taxes on the products delivered into the state that have not already been taxed. It is not possible to estimate the fiscal impact of the bill.

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 Dept.
Phone Number:	328-3402	Date Prepared:	02/17/2003

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

K. Costa Richardson
 Operator's Signature

10/16/03
 Date

FISCAL NOTE
Requested by Legislative Council
01/21/2003

Bill/Resolution No.: HB 1434

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.

HB 1434 addresses the sale of tobacco products through the mail, the Internet, or any other telecommunications method. Section 5 imposes the wholesale cigarette and tobacco taxes on the products delivered into the state that have not already been taxed. It is not possible to estimate the fiscal impact of Section 5 of the bill.

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 Dept.
Phone Number:	328-3402	Date Prepared:	02/04/2003

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Krista Richard
Operator's Signature 10/16/03
Date

From
John Olson
Prepared by Philip Morris

PROPOSED AMENDMENTS TO HOUSE BILL 1434

Page 1, line 9, delete "in or affecting interstate commerce"

Page 1, line 18, replace "Wants" with "Whether the individual wants"

Page 2, line 3, after "3.", insert "Before mailing or shipping the product, the person provides to the prospective consumer, via e-mail or other means, a notice that meets the requirements of section 4 of this Act. 4."

Page 2, line 6, replace "4." with "5."

Page 2, line 20, replace "5." with "6."

Page 2, after line 26, insert:

"SECTION 4. Disclosure Requirements. The notice required under subsection 3 of section 1 of this Act shall include:

1. A prominent and clearly legible statement that cigarette sales to consumers below the legal minimum age are illegal;
2. A prominent and clearly legible statement that consists of one of the warnings set forth in section 4(a)(1) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. § 1333(a)(1)) rotated on a quarterly basis;
3. A prominent and clearly legible statement that sales of cigarettes are restricted to those consumers who provide verifiable proof of age in accordance with section 1 of this Act; and
4. A prominent and clearly legible statement that cigarette sales are subject to tax under §57-36-06 and §57-36-32, and an explanation of how such tax has been, or is to be, paid with respect to such delivery sale."

Page 3, line 18, delete ", or who knowingly and"

Page 3, delete line 19

Page 3, line 20, delete "this Act in another person's name,"

Page 3, line 21, after "3." insert "Any person who knowingly and falsely submits a certification under subdivision a of subsection 5 of section 1 of this Act in another person's name is guilty of a noncriminal offense. 4."

Page 3, line 24, replace "4" with "5"

Renumber Accordingly

