2021 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1152

2021 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Room JW327C, State Capitol

HB 1152
2/1/2021

Cigar bars & lounges

(2:40) Chairman Lefor calls the hearing on HB 1152.

Representatives	Attendance
Chairman Lefor	P
Vice Chairman Keiser	P
Rep Hagert	P
Rep Jim Kasper	P
Rep Scott Louser	P
Rep Nehring	P
Rep O'Brien	P
Rep Ostlie	P
Rep Ruby	P
Rep Schauer	P
Rep Stemen	P
Rep Thomas	P
Rep Adams	P
Rep P Anderson	P

Discussion Topics:

- Guidelines for Cigar Bars & Lounges.

Rep D Ruby introduced the bill.

Sen Oley Larsen~District 34. Testified in favor.

Shaun Sipma~Citizen from Minot. Attachment #4533.

Josette Severson~Prairie Patriot Firearms Training. Attachment #4658.

Rudie Marrtinson~ND Hospitality Association. Testified in favor.

Susan Kahler~SAP Coordinator-Bismarck Burleigh Public Health. Attachment #4467.

Heather Austin~Executive Director-Tobacco Free ND. Attachment #4388.

Mike Krumwiede~American Heart Commission. Attachment #4585.

Jessica Arndt~Bismarck Tobacco Free Coalition. Attachment # 4346.
Deb Knuth~Government Relations Director for the ND American Cancer Society Cancer Action Network. Attachment #4632.

Neil Charvat~Director of Tobacco Prevention & Control Program-ND Dept of Health. Attachment #4559.

Chairman Lefor closes the hearing.

Additional written testimony: #4389, 4385,4386, 4387, 4244, 4252, 4304, 4351, 4379, 4394, 4395, 4396, 4489, 4499, 4642.

(3:56) End time.

Ellen LeTang, Committee Clerk

4533

House Industry, Business & Labor
Chairman – Representative Mike Lefor
February 1, 2021

Testimony

By: Shaun Sipma
Minot, ND Resident
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HB 1152

Good afternoon Chairman Lefor and members of the House Industry, Business and Labor Committee. My name is Shaun Sipma and I am a resident of Minot. Thank you for the opportunity to testify today in support of House Bill 1152.

It's been more than nine years since our City's only cigar-lounge closed stemming directly from the smoking ban passed by a statewide vote. The Great Plains Smoke Shop was owned by a retired Air Force veteran. The Great Plains Smoke Shop had one full time employee with several part time people employed. The Garage Lounge, that was connect to Great Plains, was also owned by the same Air Force Veteran and had approximately 5 part-time employees. Both businesses were small but generated a lot of revenue for a business of its size. Great Plains also hosted numerous fundraisers each year with benefits going to Wounded Warriors and the Mid-Dakota Chapter of the American Red Cross to name just a few. North Dakota Cigarfest also came to be as an annual event that brought as many as 250 people from around the region to the event.

The Garage Lounge being a beer bar was a niche business to put it plainly. Beer and Cigars. People who patronized the were there for exactly those reason. Those that didn't appreciate the atmosphere would simply choose to go somewhere else.

As both businesses closed, the Garage Lounge first shortly after the smoking ban followed by Great Plains Smoke shop about three years later

all of the sales of cigars have gone on-line. I know because that's where I by mine. Cigars International.com, Cigar.com, Thompson Cigar.com, JR Cigars.com are just a few of the places where purchases are made. Based on cigar forums on-line on various social media platforms I can attest I am far from the only person that took my business elsewhere when "Buy Local" was regulated out of business.

I have no doubt the same testimony will arise about smoking concerns, health studies and more pitting Cigar Smoking as unhealthy, as a gateway to get younger people to start smoking or air pollution as we heard last legislative session when a similar bill was considered.

For me, this comes down to a simplistic point, cigar smokers are still smoking cigars. We are now in our garage or outbuilding during the winter or sitting on our desk or patio during the summer. The difference is our money is going out-of-state to online companies rather than being spent locally.

I agree that regulation to keep children away from smoking prudent and necessary. The pendulum of regulation though swung entirely too far. The issue of health and choice can be debated endlessly so I will leave that to your own understanding.

Thank you for your time and please consider a Do-Pass recommendation on House Bill 1152.

I'd be happy to stand for questions if you have them.

4658

HB 1152
February 1, 2021

Josette Severson
Home Address: 206 13th Ave NE, Mandan, ND 58554
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Representatives,
My Name is Josette Severson. I own Prairie Patriot Firearms Training in Mandan. In addition to my range and training center, I sell firearms, accessories and cigars. One of the common themes I hear from my guests is "why can't you start a cigar lounge so we have somewhere indoors to smoke our cigars".

The firearms industry is one that not everyone supports. Those who choose to frequent my range support their right as Americans to enjoy shooting sports or for personal protection. Like firearms, the cigar industry is also one that not everyone supports. Thankfully we live in a country that allows their citizens the freedom of choice to indulge in what they enjoy, be it shooting or a good cigar.

With my range and training facility, I adhere to all the state and federal rules and regulations for operating a safe, clean facility. My guest's well-being is the core of my business.

Today, I am asking for myself and other business owners to have the opportunity to operate cigar bars and lounges. HB 1152 details the professional rules and regulations that will ensure a safe environment to enjoy a cigar with other like-minded citizens. Please give us the opportunity to bring a portion the projected 2021 $9.6 million* of revenue to North Dakota, which in turn will provide a niche entertainment income, additional employment opportunities and added tax revenue to our great state.

Thank you

*Source: https://www.statista.com/outlook/50030000/109/cigars/united-states#market-revenue

4467

TESTIMONY IN OPPOSITION OF HB 1152

Susan Kahler
SAP Coordinator
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Good afternoon, Chairman Lefor and members of the House Industry, Business and Labor Committee. My name is Susan Kahler. I am a Substance Abuse Prevention Coordinator at Bismarck-Burleigh Public Health. I am here on the behalf of the City of Bismarck to oppose HB 1152.

This bill would create a public health issue with exposure to secondhand smoke. I receive many phones and comments from citizens of Bismarck about how much they appreciate the Smoke Free Ordinance and State Law. As some you may recall the on April 11th, 2011, Bismarck voters laid the issue to rest, deciding for all that everyone, including bar workers and patrons, should be able to breathe clean indoor air and same thing in 2012 statewide.

The definition for smoking in the ND Smoke Free Law and local ordinances includes cigars. Cigars are also defined as tobacco in the ND Century Code as a tobacco product and are very similar to cigarettes; except they are wrapped in tobacco leaf. Cigar's produce secondhand smoke that contains the same toxic chemicals that secondhand cigarette smoke does. There is an abundance of scientific research on secondhand smoke and how it can cause or contribute to lung cancer and heart disease. Cigar smokers have the same risks to nicotine dependence as other tobacco product users.

Separating smokers from nonsmokers, cleaning the air, and ventilating buildings: none of these measures fully protect people from secondhand smoke. The only effective preventive measure is to eliminate smoking in indoor spaces completely. HB 1152 would allow individuals to smoke cigars and expose others to secondhand smoke plus be very difficult to enforce what tobacco products they are smoking inside this bar. Who will monitor this?

The ND Smoke Free Law was passed in 2012 to protect everyone from secondhand smoke exposure and provide equality for all. I, and on the behalf of the City of Bismarck Commission, oppose HB 1152. Thank you. This concludes my testimony. I will be happy to answer any questions you may have.

4388

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February 1, 2021
2:30 pm CST
House Industry, Business, and Labor Committee for the 67th ND Legislative Assembly

Chairman Lefor, and members of the House Industry, Business, and Labor Committee, hello, my name is Heather Austin, and I am the Executive Director for Tobacco Free North Dakota. The mission of Tobacco Free North Dakota is to improve and protect the public health of all North Dakotans by reducing the serious health and economic consequences of tobacco use, the state's number one cause of preventable disease and death. Thank you so much for your time this morning.

Today I am here to encourage a Do Not Pass on HB 1152, the bill allowing for the establishment of cigar bars in ND. By eroding our indoor smoke free air law, by making exceptions to allow even one type of product to be smoked or aerosolized indoors, we do a serious disservice to our citizens and to our state.

According to the Dept. of Health Tobacco Surveillance Data Table in 2017 for North Dakota, tobacco use cost our state $326 million in Smoking Attributable Medical Expenditures, and $232.6 million in Smoking Attributable Productivity Loss. That is over ½ a BILLION dollars annually in smoking related expenses to the state of North Dakota! Rolling back indoor smoke free air law protections will only exasperate this issue, as cigars are a public health risk and are a leading cause of several cancers.

By allowing cigar bars, we begin to renormalize smoking to our youth, undoing years of work by our public health experts across North Dakota. There is already a serious disconnect in youth views concerning vaping vs. smoking, with the former seeming to be safer in the eyes of our teens, even though evidence is showing that it clearly is not.

Unfortunately, sales of cigars continue unabated. While cigarette consumption decreased by nearly 40 percent from 2000 to 2015, cigar consumption increased by 92 percent. i Cigar use among youth is almost as common as cigarette smoking. We do not want to confuse the issue even further by making cigars seem safe enough to smoke indoors without serious health consequences for those exposed. There is no safe level of tobacco exposure. ii

We also know that ventilation systems simply do not work to eliminate all secondhand smoke. While they are sometimes promoted as a way to reduce exposure to secondhand smoke, ventilation cannot remove it all, and does not purify the air at rates fast enough to protect people from the harmful toxins. The Surgeon General has concluded that even taking the steps of separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate exposure of nonsmokers to secondhand smoke. This means who these proposed

establishments share walls with could have dire consequences, especially in cases where they share walls with residences, or with businesses catering to youth. The only effective way to fully protect people from exposure to secondhand smoke is to completely eliminate smoking in indoor public spaces. iii. Everyone deserves clean air.

I would also like to point out that currently North Dakota has one of the best indoor smoke free air laws in the nation protecting our citizens. We need to be proud of that and we need to preserve it. Once one exception is made, how soon will it be before another request appears in front of our Legislature? With electronic product use at FDA labeled epidemic levels for our youth, and with new products being introduced at a lightning pace, we cannot risk opening the door for further erosion of a proven health policy that creates a healthier state and that saves lives.

Finally, I think it bears noting that the COVID-19 global pandemic we have suffered this past year is a disease specifically targeting our lungs and causing severe pulmonary and cardiovascular distress for many of the people contracting it. Lung health is as vital now as it ever was before, and weakening our pulmonary systems, and promoting establishments that could do so specifically, should not be allowed.

TFND published a Resolution of Support for preserving our Indoor Smoke Free Air Law. The following organizations have signed it: Bismarck-Burleigh Break Free Youth Board, Cavalier County Memorial Hospital, Cavalier County Board of Health, Grand Forks Tobacco Free Coalition, Light of Christ Catholic Schools, McKenzie County Community Coalition, Mid Dakota Clinic, ND Public Health Association, ND Society for Respiratory Care, Pembina County Board of Health, Pembina County Commission, Pembina County Memorial Hospital Association, University of Mary Health PRO, Upper Missouri District Health Unit, Walsh County Tobacco Free Coalition, and Williams County Community Coalition.

Again, thank you for this time in front of you, Chairman Lefor, and the Committee. It is very appreciated. Please vote Do Not Pass on HB 1152.

May I take any questions?

Heather Austin
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i. American Cancer Society. Cancer Facts & Figures 2017. Atlanta, GA: American Cancer Society, 2017
ii. Surgeon General Report 2010 https://www.surgeongeneral.gov/library/reports/secondhand-smoke-consumer.pdf and National Cancer Institute Dec. 5, 2016 https://www.cancer.gov/news-events/press-releases/2016/low-intensity-smoking-risk
iii. U.S. Department of Health and Human Services (HHS). The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Coordinating Center for Health Promotion, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006.

4585

Testimony in Opposition of HB 1152

House Industry, Business, and Labor Committee

Chairman Lefor and Members of the House Industry, Business, and Labor Committee, my name is Mike Krumwiede appearing on behalf of the American Heart Association in opposition of House Bill 1152. In November 2012, North Dakota voters opted to become smoke-free, leading the nation with a strong comprehensive model. Voters in every county in the state favored the law, which advances public health by protecting more workers, residents, and visitors from secondhand smoke exposure in public places and places of employment.

Secondhand smoke (from cigarettes and cigars) has been proven to cause numerous health problems, including heart disease, emphysema, stroke, sudden infant death syndrome and cancer. Secondhand smoke contains toxic chemicals like formaldehyde, cyanide, carbon monoxide, ammonia and nicotine. Exposure to secondhand smoke causes preventable deaths from lung cancer and cardiac-related illnesses. The Centers for Disease Control and Prevention (CDC) makes clear that there is no safe level of exposure to secondhand smoke.

Smoke-free policies help prevent youth tobacco use. A major conclusion from U.S. Surgeon General's Report ("Preventing Tobacco Use Among Youth and Young Adults") states that smoke-free policies, combined with a comprehensive prevention approach, are effective in preventing youth and young adults from starting to smoke.

HB 1152, which would allow smoking in bars that sell cigars and so-called cigar lounges would weaken existing protections and pollute the indoor air in North Dakota. In addition, AHA is concerned, it could also create an opening for more exemptions allowing cigar lounges, smoking lounges, vaping bars, hookah bars, and pipe tobacco rooms as possible options.

The original law our voters approved nearly a decade ago clearly states the importance of protecting public health and the need for individuals to breathe smoke-free air. This extends to all workers including those who work in bars and cigar lounges. For these reasons we urge a DO NOT PASS recommendation on HB 1152. Thank you for your time and consideration.

4346

Testimony in Opposition of HB 1152

Jessica J. Arndt
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Chairman Representative Lefor, and members of the Industry, Business, and Labor Committee. My name is Jessica Arndt. I currently serve as the President of the Bismarck Tobacco Free Coalition. I am also a respiratory therapist and educator. I have worked in respiratory care for nearly 13 years and am here to provide testimony in opposition of HB 1152.

The Bismarck Tobacco Free Coalition has always led the way in advocating for smoke-free air protection for all workers. In 2005, when the City of Bismarck passed its first smoke-free ordinance, it only applied to restaurants and all indoor workplaces except bars. Immediately after the adoption of this ordinance, we received phone calls from bartenders, wait staff, gamming employees and musicians wanting to know why they were excluded? Are their lives less important? Didn't they deserve to have the same, safe, smoke-free working environment? Our coalition again educated others about the need to protect all workers, and eventually the citizens of the City of Bismarck voted in a majority to support a smoke-free ordinance for all workplaces, including bars and private clubs. HB 1152 would create an exemption to our ND Smoke Free Law that caters to just 4% of North Dakota's population, as just 4% of the population uses cigars. Plus, this exemption would jeopardize the lives of employees as they will again be exposed to the detrimental effects of secondhand tobacco smoke from cigars.

Following these events, in 2012, a study of sales tax data was completed. This study showed that the Bismarck smoke-free ordinance had no significant impact on overall restaurant bar revenue. This analysis was conducted by economist Duane Pool. Duane has submitted his written testimony, which further explains the findings of this study, in opposition of HB 1152 for you to review. You will see that HB 1152 makes no business sense.

On another note, I previously mentioned that I am an educator, I get to help students become respiratory therapists. One of the courses I teach is a human disease course though which students learn about a myriad of disease processes. I find myself repeating, over and over again, that exposure to tobacco smoke is a risk factor. In fact, according to the Centers for Disease Control and Prevention, exposure to tobacco smoke is a known risk factor for at least four of the top ten causes of death in the United Sates and the State of North Dakota – heart disease, cancer, chronic lower respiratory disease, and stroke. As you can see, HB 1152 would not offer North Dakotans any health-related benefits, rather it would increase their risk of developing these diseases. Furthermore, if you think about the financial burden caused by the aforementioned disease processes, the medical costs to our citizens, and the lost days

of work and productivity for our community, you will see that it is prudent to uphold our comprehensive smoke free indoor air law.

While I applaud the entrepreneurial spirit of HB 1152, putting business and financial profit above the health of the citizens of North Dakota needs to be examined carefully. The Bismarck Tobacco Free Coalition urges you to vote "NO" on HB 1152 because it will unravel North Dakota's Comprehensive Indoor Smoke Free Air Law, taking a step backwards and putting our citizens at risk of secondhand tobacco smoke once again. To bend this law, even just a little, even for just one cigar bar, would be a disservice to the people you represent, the people who voted in favor of this law, the people who still want to uphold this law.

Thank you for your time and consideration.

References

1. North Dakota Tobacco Surveillance Data: https://www.health.nd.gov/sites/www/files/documents/Files/HSC/CHS/Tobacco/Tobacco_Surveillance_Data.pdf
2. CDC. Health Effects of Second Hand Smoke: https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/health_effects/index.htm
3. CDC. Deaths and Mortality: https://www.cdc.gov/nchs/fastats/deaths.htm
4. CDC. Stats of the State of North Dakota: https://www.cdc.gov/nchs/pressroom/states/northdakota/northdakota.htm
5. North Dakota Department of Health. North Dakota Fast Facts 2017: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiWuO-6kcDuAhWOZ80KHVfFDsYQFjABegQIDBAC&url=https%3A%2F%2Fwww.health.nd.gov%2Fsites%2Fwww%2Ffiles%2Fdocuments%2FFiles%2FVital%2Fff2017.pdf&usg=AOvVaw3aQshpYFfzuY6av5SJbJlv

4632

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North Dakota HB 1152
House Committee on Industry, Business and Labor
February 1, 2021, 2:30 p.m. CST

My name is Deb Knuth and I am the Government Relations Director for the North Dakota American Cancer Society Cancer Action Network.

The American Cancer Society Cancer Action Network (ACS CAN), the nonprofit, non-partisan advocacy affiliate of the American Cancer Society advocates for public policies that reduce death and suffering from cancer including policies targeted at reducing tobacco use. ACS CAN strongly opposes HB 1152, a bill that is relating to cigar bars.

North Dakota enjoys one of the most comprehensive smoke-free laws in the nation and its citizens are protected by having smoking prohibited in all enclosed areas of public places and places of employment. At this critical moment with people focused on protecting their respiratory health, we must do everything in our power to keep our communities healthy and safe—which means protecting our current smoke-free law.

Secondhand smoke is a serious health hazard. Ventilation technologies do not sufficiently protect individuals from the harmful effects of breathing in secondhand smoke. The only effective way to fully protect nonsmokers from exposure to secondhand smoke is to eliminate smoking in indoor public spaces. Cigars are a public health risk and a leading cause of laryngeal, oral and esophageal cancers.

Cigar use is a significant public health concern. Cigars—just like cigarettes and other tobacco products—are not safe. They contain many of the same cancer-causing substances as cigarettes and other tobacco products. All tobacco products, including cigars, contain nicotine, which may induce dependence and harm health. Cigars also produce secondhand smoke that is dangerous for non-smokers.

Regulation of cigars is part of ACS CAN's comprehensive approach to reducing tobacco use and exposure to secondhand smoke in the United States. We must include cigars in smoke-free laws. Secondhand smoke from cigars poses significant health risks to smokers and those around them and should be included as part of any smoke-free law. This includes prohibiting cigar use in cigar and tobacco shops, bars identified as "cigar bars," gaming facilities and wherever else

smoking is prohibited. There is neither a public health nor fiscal justification for giving cigars of any size preferential treatment.

There are no safe tobacco products, and there is no safe level of exposure to secondhand smoke. ACS CAN does not support smoke-free laws that allow for separating smokers from nonsmokers or ventilating building as alternatives to requiring a 100 percent smoke-free environment, as the evidence is overwhelming that these measures cannot eliminate exposure of nonsmokers to secondhand smoke.

ACS CAN's work to create 100 percent smoke-free environments is part of a comprehensive approach to addressing tobacco use and exposure to secondhand smoke in the United States.

ACS CAN supports local, state, and federal initiatives to eliminate public exposure to secondhand smoke, including 100 percent smoke-free laws, prohibiting smoking in all workplaces, including restaurants, bars and casinos which are key to protect nonsmokers, children and workers from the deadly effects of secondhand smoke.

The American Cancer Society Cancer Action Network urges legislators to oppose HB 1152.

Thank you for allowing me to testify. I have also emailed additional information on ventilation and why cigars are not a safe alternative to cigarettes. Are there any questions?

4559

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House Bill 1152
Industry, Business and Labor Committee
February 1, 2021, 2:30 p.m.

Good Afternoon, Chairman Lefor and members of the House Industry, Business and Labor Committee. My name is Neil Charvat, and I am the Director of the Tobacco Prevention and Control Program for the North Dakota Department of Health. I am here to provide testimony in opposition to House Bill 1152, relating to cigar bars and lounges.

Tobacco prevention and control efforts in North Dakota focus on guidance provided by the Centers for Disease Control and Prevention (CDC) *Best Practices for Comprehensive Tobacco Control Programs* (Best Practices). Best Practices provide evidence-based interventions to prevent tobacco product use initiation; increase quitting tobacco use; and reduce exposure to secondhand smoke. House Bill 1152 will create an exemption for North Dakota businesses to provide an environment that exposes the public, especially employees, to secondhand smoke in the workplace.

In November 2012, North Dakotans overwhelmingly approved Initiated Measure 4. This measure removed exemptions from the 2005 State Smoke-Free Law. The remaining exemptions mainly applied to bars, truck stops, and public lodging. The intent was to protect all North Dakota citizens from unnecessary exposure to secondhand smoke in indoor public venues. The 2012 North Dakota Smoke-Free Law is an exceptional public health policy achievement. It not only protects the public from the dangers of secondhand smoke exposure, but also addresses the emerging issues of the dangers of electronic nicotine delivery systems (ENDS), also known as e-cigarettes and vaping. The 2016 *E-Cigarette Use Among Youth and Young Adults: A Report of the Surgeon General* applauds the North Dakota 2012 Smoke-Free Law as a major policy success to protect our citizens. House Bill 1152 seeks a special exemption for one type of tobacco product; making changes to such an effective policy will lessen the ability to protect public health.

We have evidence that policies like this reduce death and disability in our communities. A research paper from the University of North Dakota, *Impact of a Comprehensive Smoke Free Law on Incidence of Heart Attacks at Rural Community Hospitals,* that studied the effects of smoke-free workplaces in Grand Forks cited:

Approximately 46,000 deaths from cardiovascular disease are associated with secondhand smoke exposure annually in the U.S.. This corresponds to roughly 150 deaths annually in North Dakota. Secondhand smoke, even in brief exposure, can increase risk of heart attack. Heart attack admissions fell by 30.61% as a percentage of total admissions after implementation of a comprehensive smoke free law, from 0.49% (83/16,702) to 0.34% (63/18,513).

A cigar bar, as proposed in this bill, will expose all employees and patrons to the dangers discussed above. Additionally, there would be secondhand smoke affecting the employees and patrons of other businesses if the cigar bar is in the same building.

According to the North Dakota Adult Tobacco Survey, cigar use by adults in North Dakota averages 4.67% (2015-2019). The North Dakota Department of Health does not differentiate between tobacco products like cigarettes and cigars. The three major types of cigars sold in the United States are large cigars, cigarillos, and little cigars. Cigars are not proven to be healthier or less dangerous than cigarettes. For every gram of tobacco smoked, there is more cancer-causing tar in cigars than in cigarettes. Cigar wrappers are less porous than cigarette wrappers and makes the burning of cigar tobacco less complete than the burning of cigarette tobacco. As a result, cigar smoke has higher concentrations of toxins than cigarette smoke. Smokers using cigars experience heart disease, cancer, and the other types of illnesses that cause the death of over 1,000 North Dakotan's per year[1].

House Bill 1152 allows for indoor smoking. The bill defines a lounge as "enclosed by solid walls or windows, a ceiling, and a solid door; and is equipped with a ventilation system by which exhausted air is not recirculated to nonsmoking areas and smoke is not backstreamed into nonsmoking areas." This language gives the appearance of mitigating the dangers of secondhand

[1] https://cancercontrol.cancer.gov/brp/tcrb/monographs/monograph-09

smoke indoors through ventilation. Ventilation systems do not work to protect the public from this danger. According to the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) in their position statement on the subject:

> *"At present, the only means of effectively eliminating health risks associated with indoor exposure is to ban smoking activity… No other engineering approaches, including current and advanced dilution ventilation or air cleaning technologies, have demonstrated or should be relied upon to control health risks from ETS [environmental tobacco smoke] exposure in spaces where smoking occurs… Because of ASHRAE's mission to act for the benefit of the public, it encourages elimination of smoking in the indoor environment as the optimal way to minimize ETS exposure."*

In addition to cigar smoke, there is also concern that other products may be smoked in these facilities. House Bill 1152 states "A bar or cigar lounge meeting the requirements of this subdivision may permit the smoking of cigars purchased on the premises, but may not permit the smoking of any other product on the premises." There is no way to assure that the products being used in the facility are from the facility and the bill offers no consequence for violating any use of other smoking products.

House Bill 1152 provides definitions for the use of cigars that are not clear. The definition of cigars describes the product wrapped in whole tobacco leaves. Beyond that, the ingredients refer to what can be used for a binding agent and no additives other than water. Some cigar brands use flavorings, which raises the concerns that cigars are more appealing to youth. However, there is no requirement to post the actual ingredients, nor are there any proposed methodology to determine if these guidelines are being followed. This leaves any regulation of product ingredients up to the cigar production industry. There are no consequences for violating ingredient requirements allowing the industry to self-regulate. There is a weight requirement of these products "weighs at least six pounds per thousand count." While these requirements may seem like regulations, they have no practical implication for regulation.

Providing exemptions for one tobacco product may lead to additional exemptions for other tobacco products, such as hookah lounges, which are currently not allowed under the North Dakota Smoke-Free Law. Product exclusivity should not be equated with a legal exemption to smoke inside of a public place of business. The North Dakota Smoke-Free Law has been providing this legal level playing field for all businesses since 2012.

House Bill 1152 seeks to change the current smoke-free law to create places that put patrons, employees, and anyone in the immediate area at risk of sickness and death from secondhand smoke to provide an exemption for a niche business. Clean air remains the standard to protect health.

This concludes my testimony. I am happy to answer any questions you may have.

4389

Adopted by the Tobacco Free North Dakota Board of Directors December 12, 2019.

Statement of Support for the North Dakota Smoke-Free Law

WHEREAS, tobacco use is the foremost preventable cause of premature death in the United States.[1] Tobacco is responsible for approximately 480,000 deaths a year and 20.8 million premature deaths in the United States over the past 50 years since the first Surgeon General's report on smoking in 1964[2];

WHEREAS, tobacco smoke contains more than 7,000 chemicals, including hundreds that are toxic and about 70 that can cause cancer [3]. Both the Public Health Service's National Toxicology Program and Environmental Protection Agency have classified secondhand smoke (SHS) as a known carcinogen, concluding that SHS is a health risk to nonsmokers[4];

WHEREAS, the Surgeon General concludes that SHS causes lung cancer, heart disease, as well as stroke in adults[2]. In addition, the following health effects are associated with SHS exposure: sudden infant death syndrome, low birth weight; middle ear problems, respiratory symptoms, and asthma in children[5];

WHEREAS, studies have shown that second hand aerosol from electronic nicotine delivery systems (ENDS) is not harmless. It can contain harmful and potentially harmful chemicals, including nicotine; ultrafine particles that can be inhaled deep into the lungs; flavoring such diacetyl, a chemical linked to a serious lung disease; volatile organic compounds such as benzene, which is found in car exhaust; and heavy metals, such as nickel, tin, and lead[6];

WHEREAS, secondhand smoke from marijuana has many of the same chemicals as smoke from tobacco, including those linked to lung cancer[7]. Exposure to fine particulate matter can exacerbate health problems, especially for people with respiratory conditions like asthma, bronchitis, or chronic obstructive pulmonary disease (COPD)[8];

WHEREAS, cigar smoke, like cigarette smoke, contains toxic and cancer-causing chemicals that are harmful to both smokers and nonsmokers. Cigar smoke is possibly more toxic than cigarette smoke as cigars have a higher level of cancer-causing substances, more tar, and a higher level of toxins[9]. The larger size of most cigars and longer smoking time result in higher exposure to many toxic substances including carbon monoxide, hydrocarbons, ammonia, cadmium, and other substances.

WHEREAS, the American Society for Heating, Refrigeration, and Air-Conditioning Engineers (ASHRAE), affirms that mechanical solutions like ventilation cannot control for the health hazards of SHS, the only means of effectively eliminating health risk associated with indoor secondhand smoke

exposure is to ban smoking activity[10];

WHEREAS, the Surgeon General concluded that there is no risk-free level of exposure to SHS; ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to secondhand smoke; smoke-free workplace policies are the only effective way to eliminate SHS exposure in the workplace, and evidence from peer-reviewed studies shows that smoke-free policies and laws do not have an adverse economic impact on the hospitality industry;

WHEREAS, SHS exposure in bars and restaurants leads to 1420 new cases of asthma among nonsmoking servers each year[11];

WHEREAS, multiple studies have linked comprehensive smoke-free workplace and public places legislation to significant declines in hospital admissions for heart attacks in the general population;

WHEREAS, studies indicate that individuals living in communities with comprehensive smoke-free policies are 22% less likely to be hospitalized for COPD compared to their peers in communities with moderate-weak smoke-free laws or no law[12];

WHEREAS, the World Health Organization (WHO) recommends that ENDS not be used indoors, especially in smoke-free environments, in order to minimize the risk to bystanders of breathing in the aerosol emitted by the devices and to avoid undermining the enforcement of smoke-free laws[13];

WHEREAS, the annual economic impact of smoking in the U.S. is more than $300 billion in health care and lost worker productivity costs[11];

WHEREAS, in 2012 North Dakota enacted a comprehensive statewide law prohibiting smoking in enclosed public places and policies such as this have been shown to protect the public from exposure to secondhand smoke, and help smokers reduce the number of cigarettes consumed or quit entirely[14];

WHEREAS, this law is supported by over 80% of North Dakotans[15;]

THEREFORE, be it resolved, _____ believes that the current protections that this law provides the citizens of North Dakota enhance the health and wellbeing of the state and supports the preservation of this law.

_____	_____	_____
Name of Organization Representative	Signature of Organization Representative	Date

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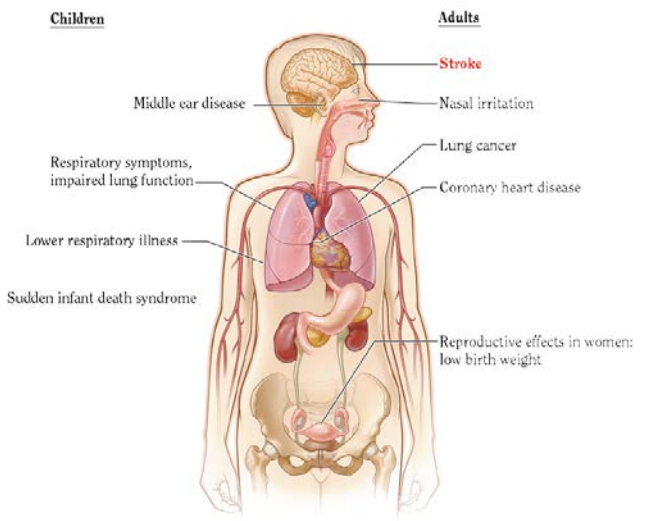
HEALTH HARMS FROM SECONDHAND SMOKE

The scientific evidence on the health risks associated with exposure to secondhand smoke is clear, convincing, and overwhelming. Secondhand smoke (also referred to as involuntary smoking, environmental tobacco smoke, and passive smoking) is a known cause of lung cancer, heart disease, low birth-weight births, chronic lung ailments, as well as other health problems. According to the Centers for Disease Control and Prevention (CDC), more than 41,200 adult nonsmokers die every year in the United States from heart disease and lung cancer caused by exposure to secondhand smoke. CDC also reports that secondhand smoke exposure causes more than 8,000 deaths from stroke annually.[1]

Health impacts from secondhand smoke exposure

Figure 1.1B The health consequences causally linked to exposure to secondhand smoke



Source: USDHHS 2004, 2006.
Note: The condition in red is a new disease that has been causally linked to smoking in this report.

The 2014 Surgeon General's Report, *The Health Consequences of Smoking—50 Years of Progress,* notes that "substantial progress toward eliminating exposure among nonsmokers to secondhand smoke has been made over the last 50 years. Nevertheless, the population in over half of the United States is not adequately protected from involuntary exposure to secondhand smoke by comprehensive smoke-free policies covering public and private workplaces, restaurants, bars, and other public enclosed environments."[2]

Populations with relatively higher exposure to secondhand smoke include children, African Americans, those living in poverty, the less well-educated, and those who live in rental housing.[3] For workers, exposure is relatively higher in service and blue-collar occupations than in white-collar occupations.[4]

The report found that, "today, the adverse health effects of exposure to secondhand smoke are well understood, and firm causal conclusions have been reached on its risk to the health of nonsmokers."

In one of the Report's ten major conclusions, the Surgeon General found that "Exposure to secondhand tobacco smoke has been causally linked to cancer, respiratory, and cardiovascular diseases, and to adverse effects on the health of infants and children." In a new finding, the report concludes that secondhand smoke exposure increases the risk of stroke in nonsmokers.

- *U.S. Surgeon General (2010)* – In the report, *How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking Attributable Disease,* The Surgeon General concluded that:
  - Cigarette smoke contains more than 7,000 chemicals and compounds. Hundreds are toxic and at least 69 cause cancer. Tobacco smoke itself is a known human carcinogen.
  - Low levels of smoke exposure, including exposures to secondhand tobacco smoke, lead to a rapid and sharp increase in dysfunction and inflammation of the lining of the blood vessels, which are implicated in heart attacks and stroke.[5]

- In November 2016, the U.S. Public Health Service's National Toxicology Program issued its *14th Report on Carcinogens*, which unambiguously states, based on a thorough review of the available scientific and medical evidence, that:

  "Environmental tobacco smoke is known to be a human carcinogen based on sufficient evidence of carcinogenicity from studies in humans." [6]

- *U.S. Surgeon General* (2006) – In the report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*, the Surgeon General concluded that:

  - "Secondhand smoke exposure causes disease and premature death in children and adults who do not smoke.
  - Children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory infections, ear problems, and more severe asthma. Smoking by parents causes respiratory symptoms and slows lung growth in their children.
  - Exposure of adults to secondhand smoke has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer.
  - The scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke."[7]

- *Institute of Medicine (2009)* – In a landmark report, *Secondhand Smoke Exposure and Cardiovascular Effects: Making Sense of the Evidence*, the Institute of Medicine (IOM) concludes smoke-free laws reduce the number of heart attacks and save lives. The report also confirms that there is conclusive scientific evidence that secondhand smoke causes heart disease, including heart attacks.

  The IOM report was requested by the Centers for Disease Control and Prevention (CDC) in the wake of a growing number of studies in smoke-free localities, states and countries that found reductions in heart attack rates after smoke-free laws are implemented. After a thorough review of the evidence, an IOM committee of scientific experts reached the following conclusions:

  - "The committee concludes that there is a causal relationship between smoking bans and decreases in acute coronary events."

  - "The evidence reviewed by the committee is consistent with a causal relationship between secondhand-smoke exposure and acute coronary events, such as acute MI (myocardial infarction)."

  - "The committee concludes that it is biologically plausible for a relatively brief exposure to secondhand smoke to precipitate an acute coronary event." According to the report, experimental studies have found that secondhand smoke exposure causes adverse changes in the cardiovascular system that increase the risk of a heart attack. [8]

- The Centers for Disease Control and Prevention also stated that studies conducted in several communities, states, and countries have found that implementing smoke-free laws is associated with reductions in hospital heart attack admissions. The CDC notes that, "smoke-free laws likely reduce heart attack hospitalizations both by reducing secondhand smoke exposure among nonsmokers and by reducing smoking, with the first factor making the larger contribution." [9] Based on earlier evidence, experts at the U.S. Centers for Disease Control and Prevention had previously noted to all clinicians with patients who have a history of coronary heart disease that those patients "should be advised to avoid all indoor environments that permit smoking."[10]

- *World Health Organization* (2007) – In its report, *Protection From Exposure To Secondhand Tobacco Smoke – Policy Recommendations*, the World Health Organization stated that, "Scientific evidence has firmly established that there is no safe level of exposure to second-hand tobacco smoke (SHS), a

pollutant that causes serious illness in adults and children. There is also indisputable evidence that implementing 100% smoke-free environments is the only effective way to protect the population from the harmful effects of exposure to SHS." [11]

- *California Environmental Protection Agency* (2005) – In its report, *Proposed Identification of Environmental Tobacco Smoke as a Toxic Air Contaminant*, the California Environmental Protection Agency (CalEPA) recommended, based on their latest, comprehensive review of the scientific literature, that secondhand smoke be declared a toxic air contaminant and therefore be subject to emissions control regulations to be promulgated by the State of California. In this report, CalEPA reiterated and strengthened many of its previous findings regarding the harms associated with exposure to secondhand smoke, including the harmful effects on children, such as sudden infant death syndrome, induction and exacerbation of asthma, increased respiratory tract infections, increased middle ear infections, developmental toxicity resulting in lower birth weight, and impaired lung function. For adults, CalEPA reiterated and strengthened its prior findings for adults including lung cancer and heart disease. The new report also included two significant, new findings including their conclusion that exposure to secondhand smoke causes nasal sinus cancer and that it causes breast cancer in younger, primarily premenopausal women.[12]

- *International Agency for Research on Cancer* (June 2004) – According to the IARC, "involuntary smoking (exposure to secondhand or 'environmental' tobacco smoke) is carcinogenic to humans (Group 1)." [13] Further, the IARC concluded that there is a "statistically significant and consistent association between lung cancer risk in spouses of smokers and exposure to secondhand tobacco smoke from the spouse who smokes. The excess risk is on the order of 20% for women and 30% for men."

  In addition, the IARC found that "epidemiological studies have demonstrated that exposure to secondhand tobacco smoke is causally associated with coronary heart disease" and they estimated that "involuntary smoking increases the risk of an acute coronary heart disease event by 25-35%." Further, the IARC noted that, for adults, "the strongest evidence for a causal relation exists for chronic respiratory symptoms."

- A 2004 study published in the British Medical Journal found that exposure to secondhand smoke increases the risk of heart disease among non-smokers by as much as 60 percent.[14] This is the first study to show a direct physical link between secondhand smoke exposure and an increased risk of heart disease. The study, conducted over 20 years by researchers at St. George's Hospital Medical School in London, measured exposure to secondhand smoke from all sources – including in bars, restaurants, and other workplaces, as well as in the home – based on blood levels of a nicotine byproduct called cotinine. The study is one of the few that has sought to account for all sources of exposure to secondhand smoke, not just home exposure.

Campaign for Tobacco-Free Kids, October 2018

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Cigars:
Not a Safe Alternative to Cigarettes

Cancer Action Network℠ American Cancer Society®
acscan.org

Cigars are a public health risk and a leading cause of laryngeal, oral and esophageal cancers. Unfortunately, sales of cigars continue unabated. While cigarette consumption decreased by nearly 40 percent from 2000 to 2015, cigar consumption increased by 92 percent.[i] Cigar use among youth almost as common as cigarette smoking. And among some groups, such as black high school students, more students use cigars than cigarettes.[ii] The most significant trend is the use of "little" cigars and cigarillos, which are often the same size as cigarettes but can be flavored in ways that are prohibited for cigarettes.

> Among youth, cigar use is almost as common as cigarette smoking.

What Defines a Cigar?

A cigar is usually defined, for tax purposes, as any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco. A cigarette is usually defined as any roll of tobacco wrapped in paper or any substance not containing tobacco. Unlike most machine-made cigarettes, cigars do not usually have a filter.

Cigars sold in the United States include large cigars, cigarillos, and little cigars. Large cigars usually contain at least a half an ounce of tobacco and can take 1-2 hours to smoke. Cigarillos tend to be shorter and contain 3 grams or less of tobacco. Some cigarillos and little cigars are similar in size and shape to cigarettes; some have filters. These little cigars are often sold in cigarette-like packs. Their size, shape, filters, flavors, and packaging make them look like cigarettes, except for their color. In fact, in 2016, the U.S. Food and Drug Administration (FDA) sent warning letters to four tobacco manufacturers stating that they were illegally selling flavored cigarettes labeled as "little cigars."[iii]

Cigar Use in the United States

- Approximately 12.5 million people in the U.S. ages 12 and older smoked cigars in 2013.[iv]
- Among adults, cigar smoking is more common among individuals who are male, younger in age, non-Hispanic multi-race or non-Hispanic Black, and report serious psychological distress.[v]
- In 2016, 7.7 percent or 1.13 million high school students smoked cigars. This rate is similar to the cigarette rate of 8.0 percent.[vi]
- In fact, cigar smoking was more common among non-Hispanic Black high school students (9.5 percent) than cigarette smoking (3.0 percent).[vii]
- Cigars are one of the many tobacco products on the market that appeal to youth. Some cigarette-sized cigars contain candy and fruit flavoring, such as strawberry and grape. About two-thirds (63.5 percent) of youth cigar smokers report smoking flavored cigars.[viii]

Health Risks of Cigar Smoking

- Cigars are not a safe alternative to cigarettes, as they contain many of the same cancer-causing substances as cigarettes and other tobacco products.
- Regular cigar smoking increases the risk of cancers of the lung, oral cavity, larynx, and esophagus.[ix]
- Cigar smokers are four to 10 times more likely to die from lunlaryngeal, oral or esophageal cancers than non-smokers.[x]
- Heavy cigar smoking also increases the risk of developing coronary heart disease and lung diseases, such as emphysema and chronic bronchitis.[xi]
- Even cigar smokers who don't inhale still breathe in large amounts of smoke from the lit end of the cigar.
- All tobacco products, including cigars, contain nicotine, which may induce dependence and harm health. Many cigar smokers also use other tobacco products, including cigarettes, roll-your-own and smokeless tobacco.[xii]
- Cigars also produce secondhand smoke that is dangerous for non-smokers.

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Status of Cigars in Tobacco Control Laws

- Cigars are taxed differently than cigarettes, and often at lower rates. Because of the lower taxes, cigarillos and little cigars cost less than cigarettes in many states, making them more affordable for younger smokers. Cigars, cigarillos and little cigars may be sold as individual sticks, which can again, make them more appealing to youth.
- Some states and localities exempt cigar stores, cigar bars and tobacco shops from smoke-free laws. These loopholes endanger public health.
- Cigars manufacturers are not required to disclose to the federal government any information about ingredients that are harmful or potentially harmful. However, cigarettes are subject to these disclosure requirements.
- Many cigar manufacturers regularly manipulate their products to evade taxation and other tobacco control regulations.

ACS CAN on Cigars

Regulation of cigars is part of ACS CAN's comprehensive approach to reducing tobacco use and exposure to secondhand smoke in the United States. ACS CAN makes the following policy recommendations with respect to cigars:

- **Subject cigars to taxation**: Like all other tobacco products, cigars should be subject to taxation as well as manufacturing and marketing rules to reduce the deadly and costly burden of tobacco use. All cigars, regardless of size, must be taxed at rates equivalent to cigarettes.
- **Include cigars in smoke-free laws**: Secondhand smoke from cigars poses significant health risks to smokers and those around them, and should be included as part of any smoke-free law. This includes prohibiting cigar use in cigar and tobacco shops, bars identified as "cigar bars", gaming facilities and wherever else cigarette smoking is prohibited.
- **Regulate cigars as tobacco products**: All types of cigars, regardless of their weight, should be regulated by the FDA as tobacco products and subject to the same sales, marketing and disclosure requirements as cigarettes, smokeless tobacco and other tobacco products.

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THE RISE OF CIGARS AND CIGAR-SMOKING HARMS

Although cigarette smoking has declined, total consumption of cigars in the United States has increased dramatically since 1993, reversing a decline in consumption that had persisted for most of the twentieth century.[1] Between 2000 and 2017, for example, cigar consumption increased by 116 percent while cigarette consumption declined by 43 percent.[2] Unfortunately, many mistakenly believe that cigars are not harmful, but, in fact, cigars are addictive and harmful and are often marketed in a wide variety of kid-friendly flavors.

Health Harms to Users from Cigar Smoking. The U.S. Food and Drug Administration concluded that "all cigars pose serious negative health risks" and that "all cigar use is harmful and potentially addictive."[3] Each year, about 9,000 Americans die prematurely from regular cigar use.[4] Cigar smoke is composed of the same toxic and carcinogenic constituents found in cigarette smoke.[5] According to the National Cancer Institute's Monograph No. 9, smoking cigars causes serious health consequences.[6] For example:

> Cigar smoking causes cancer of the oral cavity, larynx, esophagus, and lung.[7]

> Daily cigar smokers, particularly those who inhale, have an increased risk of heart disease and chronic obstructive pulmonary disease (COPD).

> Cigar smokers are at increased risk for an aortic aneurysm.

> Cigar smokers have higher rates of lung cancer, heart disease, and lung disease than nonsmokers.

> Male cigar smokers are up to eight times more likely than nonsmokers to die from oral cancer and ten times more likely to die from laryngeal cancers.

The health risks from cigar smoking varies by level of exposure (number of cigars smoked, how often, degree of inhalation), and by whether the cigar smoker is a primary (current, exclusive cigar smoker with no prior history of cigarette or pipe smoking) or secondary (current, exclusive cigar smoker with prior history of cigarette or pipe smoking) cigar smoker.[8]

> According to a recent study, "all cigar products delivered significant and addictive quantities of nicotine and CO [carbon monoxide]."[9]

> Compared to never smokers, people who had exclusively ever smoked cigars had a higher risk of developing tobacco-related cancer, particularly lung cancer and head and neck cancers.[10]

> For primary cigar smokers, higher smoking intensity (more cigars per day) and greater inhalation are associated with greater risks for oral, esophageal, laryngeal, and lung cancers.[11]

> Overall, exclusive cigar smokers had higher risks for all-cause mortality compared to never tobacco users.[12]

> While many believe that cigars are not harmful because cigar smoke is not inhaled, studies have shown that some cigar smokers do inhale, thereby absorbing smoke into their lungs and bloodstream and depositing smoke particles in their lungs as well as their stomachs and digestive tract.[13]

> All cigar smokers, whether they inhale or not, expose their lips, tongue and throat to smoke and its toxic and cancer-causing chemicals.[14]

> Some youth and adult users smoke "small" or "little" cigars with full inhalation, just like cigarettes.[15]

> A study that examined National Health and Nutrition Examination Survey (NHANES) data from 1999-2012 found that cigar smokers have higher concentrations of several toxic and carcinogenic substances than nontobacco users. Among daily cigar smokers, researchers also found concentrations of NNAL, a known lung carcinogen, comparable with those concentrations found in daily cigarette smokers.[16]

Harms from Secondhand Cigar Smoke. Because of their size, cigars can produce even more secondhand smoke than cigarettes and can contain higher levels of some toxins than cigarettes.[17] A person smoking a

regular cigar creates much more air pollution than a cigarette smoker. But even in equal amounts, cigar smoke contains substantially higher levels of carbon monoxide and other toxins than cigarette smoke. At the same time, to the extent that cigar smoke is not inhaled as deeply as cigarette smoke, secondhand cigar smoke is also less "filtered" than secondhand cigarette smoke before bystanders are exposed to it.[18]

Cigar Smoking among Youth and Young Adults. In the United States, while cigarette smoking has declined rapidly, particularly in the last five years, cigar smoking has declined much more slowly. Importantly, cigar smoking is not limited to adults; more than one million high school students currently use cigars.[19]

- In 2017, 7.7 percent of high school students reported smoking cigars in the past 30 days. This rate has not changed significantly since 2014.
- High school boys smoke cigars at a higher rate than cigarettes (9.0% for cigars and 7.6% for cigarettes).[20*]
- African-American high school students smoke cigars at more than twice the rate of cigarettes (7.8% for cigars and 2.8% for cigarettes).[21*]
- Each day, more than 1,900 kids under 18 years old try cigar smoking for the first time.[22]
- Cigar smoking by high school boys equals or surpasses cigarette smoking in more than 30 states.[23]
- In 2014, 13.1 percent of high school cigar smokers and 13.2 percent of middle school cigar smokers smoked cigars on at least 20 of the preceding 30 days, which is considered frequent use. This amounts to an estimated 170,000 middle and high school students who were frequent cigar smokers.[24]
- In 2014, 77.3 percent of high school and middle school students who reported using cigars on 1-5 days in the past 30 days, reported using at least one additional tobacco product in the previous 30 days.[25]
- In 2017, 12.3 percent of high school students currently smoked cigarettes or cigars.[26]
- Black & Mild is one of the most popular cigar brands among 12-17 year olds.[27] They are made by John Middleton, Inc., which is owned by Altria, the parent company of Philip Morris USA (makers of Marlboro, the most popular cigarette brand among 12-17 year olds[28]).[29]
- The only national survey that shows rates of cigar smoking by product type is the Monitoring the Future (MTF) survey. In 2017, 6.6 percent of 12th graders, 3.0 percent of 10th graders, and 1.6 percent of 8th graders used regular little cigars or cigarillos in the past 30 days. Use of large cigars in the past 30 days was 5.6 percent among 12th graders, 2.6 percent among 10th graders, and 1.5 percent among 8th graders.[30]
- In the 2013-2014 National Adult Tobacco Survey (NATS), 8.9 percent of young adults (18-24 year olds) reported using cigar products "every day," "some days," or "rarely," compared to 4.6 percent of older adults (45-64 year olds). Overall, 5.4 percent, or 12.6 million, of adults reported using cigar products "every day," "some days," or "rarely."[31]

Cigars with Kid-Friendly Flavors.[32] The 2012 Surgeon General's report, *Preventing Tobacco Use Among Youth and Young Adults,* highlights the need to address flavored cigars, particularly because cigar manufacturers have manipulated flavored cigarettes to become flavored cigars to circumvent the ban on flavored cigarettes in the Family Smoking Prevention and Tobacco Control Act.[33]

Cigars are marketed in a range of flavors that are attractive to kids, such as candy, fruit and chocolate.[34] "Candy-flavored" is an appropriate descriptor, given a recent chemical analysis showing that the same flavor chemicals used in sweet-flavored cigars of various sizes are also used in popular candy and drink products such as LifeSavers, Jolly Ranchers, and Kool-Aid.[35] According to Nielsen market data, dollar sales of flavored cigar products increased by 46.5 percent between 2008 and 2015, and the number of unique cigar

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[*] Prevalence data are from CDC's and FDA's 2017 National Youth Tobacco Survey (NYTS). Cigars are defined as cigars, cigarillos or little cigars. The 2017 Youth Risk Behavior Survey (YRBS) found that 8.0 percent of high school students currently smoke cigars, with 10.5% of high school boys currently smoking cigars compared to 9.8% of high school boys smoking cigarettes. Among African-American high school students, the YRBS reported 7.4% currently smoking cigars compared to 4.4% who report currently smoking cigarettes. (CDC, "Youth Risk Behavior Surveillance — United States, 2017," *MMWR* 67(SS-8), June 15, 2018.)

flavor names more than doubled, from 108 to 250, over this same time period.[36] Flavored cigars made up more than half of the total cigar market (52.1%) in 2015.[37]

The top five most popular cigar brands among 12- to 17-year olds who have used cigars – Swisher Sweets, Black & Mild, Backwoods, White Owl, and Dutch Masters – all come in flavor varieties.[38] For example, Black & Mild cigars come in flavors such as apple and cherry; Swisher Sweets comes in a wide variety of flavors such as tropical fusion, Maui pineapple, twisted berry, cherry dynamite, and banana smash; and White Owl has flavors such as mango, tropical twist, strawberry kiwi, and peach.

Nielsen convenience store market scanner data also show an increasing number of products with names that do not explicitly identify a flavor, such as Swisher's "Wild Rush" and Altria's "Jazz," even though they are flavored. From 2012 to 2016, the proportion of all cigar sales comprised by these products (which researchers call "concept flavors") increased from 9 percent to 15 percent. The increase was greatest among cigarillos, among which the number of unique concept flavors more than doubled, from 17 to 46.[39]

> The 2013-2014 Population Assessment of Tobacco and Health (PATH) study found that 65.4 percent of 12-17 year olds who had ever smoked cigars smoked a flavored cigar the first time they tried the product, and 71.7 percent of current youth cigar smokers had used a flavored product in the last month.[40] Additionally, 73.8 percent of current youth cigar smokers said they smoked cigars "because they come in flavors I like."[41]

> Similarly, the 2014 National Youth Tobacco Survey (NYTS) found that 63.5 percent of middle and high school cigar smokers—a total of 910,000 youth—had smoked a flavored cigar in the past month.[42]

> Youth and young adults prefer cigar brands that come in a variety of flavors, and preference for flavored products decreases significantly with age (95% of 12-17 year old cigar smokers report use of a usual brand that makes flavored cigars compared with 63% of cigar smokers aged 35 and older).[43] For example, Swisher Sweets products, including cigarillos and blunts, come in flavors such as chocolate and strawberry, and national survey data show that Swisher Sweets is one of the most popular cigar brands among youth aged 12-17.[44]

> Data from the 2009-2010 NATS suggest that flavored cigar products are driving cigar use among adults. With few exceptions, use of flavored cigars among adult cigar smokers is highest among those groups with the highest overall cigar use rates, including young adults aged 18-24 (57.1%), income below $20,000 (51.7%), and non-Hispanic others (62.4%).[45]

> Data from the 2009-2010 NATS indicate that use of flavored cigars decreases with age. Flavored cigar use among cigar smokers was 57.1 percent among 18-24 year olds, 43.2 percent among 25-44 year olds, 28.9 percent among 45-64 year olds and 13.4 percent among those ages 65 and older.[46]

Cigars are Under Taxed & Less Restricted. The federal government and almost all of the states compound these problems by under-taxing cigars compared to cigarettes, often making smaller cigars a less-expensive alternative to cigarettes. Moreover, many laws and restrictions pertaining to cigarettes – such as federal laws banning flavored cigarettes, blocking illegal Internet sales, and restricting cigarette marketing – do not apply to cigars.[†] There had been several proposals to equalize the federal excise tax rate on cigars by Congress and in the President's Budgets, but none were successful. In May 2015, FDA issued its final rule to regulate all tobacco products, including all cigar types, which went effect in early August 2016.

Campaign for Tobacco-Free Kids, September 26, 2018 / Ann Boonn

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January 29, 2021
1:00pm CST
House Industry, Business and Labor Committee for the 67th ND Legislative Assembly

Good afternoon, Chairman Lefor and members of the House Industry, Business and Labor Committee. My name is Melissa Markegard. I am a Tobacco Prevention Coordinator at Fargo Cass Public Health. Thank you for your time this morning.

I am writing to provide education regarding HB 1152. Fargo Cass Public Health has provided tobacco prevention and control programs and resources for the residents of Fargo and Cass County since 2003. Our statewide Smoke Free Indoor Air Law passed and went into effect December 2012.

This law is incredibly important to the citizens of North Dakota, the people who overwhelmingly voted in favor of it. Fargo Cass Public Health's opposition to this bill is focused on protecting the health of all North Dakota citizens by preventing exposure to secondhand smoke.

This bill includes a requirement for a special ventilation system; however, there is no filtration and ventilation systems proven to effectively remove secondhand smoke from enclosed areas. I must reiterate that the goal of public health, and the goal of the state smoke-free law is to protect patrons and employees from exposure to secondhand smoke.

The ONLY way to effectively protect against this harm is to maintain the state smoke-free law, keeping current smoke-free environments completely smoke-free. North Dakota's current smoke-free law is one of the strongest in the nation as it includes electronic nicotine products and includes very few exemptions. By allowing additional exemptions to the Smoke Free Indoor Air Law, we weaken the law and knowingly put the health of our citizens in jeopardy.

Additionally, the COVID-19 pandemic has placed increased attention on lung health. Since smoking of any kind, including cigars, increases the risk of the most severe impacts of COVID-19, preventing and reducing all tobacco use is more critical than ever.

I implore you to vote to maintain all current provisions of the state-wide smoke-free law. Keeping this law fully intact would ensure continued protection from the dangers of second-hand smoke in public places in our great state.

Please feel free to reach out if you have any additional questions related to smoke-free policy.

Chairman and Committee members, thank you for the opportunity to provide this testimony.

Melissa Markegard

Melissa Markegard
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4252

TESTIMONY IN OPPOSITION OF HB 1152

Joelean Lowman
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Mandan, ND 58554
701-220-2482

Chairman Lefor and members of the and members of the House Industry, Business and Labor, Committee. My name is Joelean Lowman. I teach the Medical related Careers class at Legacy High School and am an Advisor for HOSA- Future Health Professionals. I have lived in Bismarck/Mandan for 25 years. I am here today to testify in opposition to House Bill 1152.

As I think about a time when ND was not Smoke Free it takes be back to 1996 when I was pregnant with my first child. At that time, I was a waitress at a restaurant that had a smoking and a nonsmoking section. I was currently in college to become and occupational therapist and knew the dangers of secondhand smoke to the child I was carrying. As a 23-year-old it was difficult for me to ask my supervisor not to be scheduled in the smoking section. Even when I did ask, the request was not always granted.

I know some people say work somewhere else. That is not always an option. When the choice becomes to protect yourself or pay the rent, the pay the rent may come out on top when taking care of yourself should. The Smoke Free laws in our state help to protect many individuals that are not capable of standing up for themselves. I can relate, because I remember being in that situation many years ago.

I think that there are many people that would not have a choice about being exposed. There are some that have less control over where they work or what businesses are next door. I also worry about the dangers of second hand or third hand smoke and how that will affect children of those that work in facilities where smoking is allowed.

Recently during a trip to Anaheim, CA with a group of students for the HOSA - Future Health Professionals International Leadership Conference we made a stop at Downtown Disney. There was a cigar bar there and right next to it was a sports memorabilia store. I had some students in the sports memorabilia store. In going in to visit with them I was shocked to realize that I could not even be in that store due to the smell of cigar smoke from the store next door. If House Bill 1152 were to be passed in North Dakota, I worry about the impact it may have on businesses that may be adjoining the cigar bar.

We have taken so many steps forward in our state ensuring that our residents can breathe clean air when in their communities and buildings, it would be so sad to see us take a huge step back. Please oppose HB 1152 so North Dakota can continue to protect the right of all our citizens to breathe clear air and provide a work environment that is safe. Thank you for your time. This concludes my testimony.

4304

Testimony in Opposition of HB 1152

Brad Stockert
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Bismarck, ND 58501
701-527-4509

Chairman Representative Lefor, and members of the Industry, Business, and Labor Committee. My name is Brad Stockert. I am a musician and a Bismarck Public Schools Music Teacher. I have played in a band for nearly forty years and am here to provide testimony in opposition of HB 1152.

Before the ND Smoke-free law passed, I would come home from playing a gig at the bar, and my eyes would sting and itch when I touched them. I knew it had to do with toxins in secondhand smoke. I would leave my clothes in the garage to air out. Being someone who performs in bars and works in schools, I hesitated to bring my equipment to work because it smelled like smoke, and I didn't want to expose others to secondhand smoke.

I appreciate the ND Smoke free law because I can enjoy playing in bars with my band and not smell like smoke the next day. It is easier to play gigs without the haze of smoke in the air. It has also been nice to eat at restaurants without the unpleasant experience of other patrons who smoked in the restaurant even when it was separated by a wall, which was ineffective.

HB 1152 would revert us back to the uncomfortable experience of playing in a bar or eating in a restaurant that could be in same location as a cigar bar, like a strip mall. In addition, cigar smoke is a much more potent smell to me than cigarette smoke. I also fear the combination of scents and flavors that might be in the air would make me nauseous while I'm playing a gig.

Individuals who play in a band, bartend, wait staff or work in an office should all have the same protections from secondhand smoke. I urge you to oppose HB 1152 so North Dakota can continue to protect everyone, no matter where they work. Thank you for your time. This concludes my testimony.

4351

Testimony – In Opposition
House Bill 1152 – Tobacco Restrictions
Industry Business and Labor Committee
Representative Lefor, Chair
January 28, 2021

Chairman Lefor, and members of the House Industry, Business and Labor Committee – My name is Duane Pool, I am a resident of District 47 and an economist. I would like to provide testimony in opposition of House Bill No. 1152.

Several years ago, I was twice contracted by the Bismarck Tobacco Free Coalition to evaluate the regulatory impact of the smoking ban on area restaurants and bars. I conducted a before and after analysis of the industry based on taxable sales reporting. An anecdotal irony is that I am allergic to smoke and my co-author, who has passed, was a chain smoker. Based on that knowledge of the local market, I am comfortable suggesting that the addition of cigar bars will have marginal if any increase in market revenue.

Based on previous research, individual revenue differences will mostly be due to a substitution effect wherein patrons will shift from one facility to another and not as a result of significant recruitment of new patrons to the market. If the beneficial justification is increased market revenue, then based on these previous studies, that justification would be a relatively weak stance given the well documented health cost side of the regulatory impact analysis research for smoking that is readily available.

Another point, if I may, as it stands the current law treats everyone equally. If, as a legislative body, you start making exceptions, you open the basic statute to equal treatment challenges in the future.

Respectfully in opposition to House Bill No. 1152,
Duane Pool

4379

TESTIMONY IN OPPOSITION OF HB 1152

Sommer Frohlich
3724 Renee Dr. Bismarck ND, 58503
701-934-0540

Chairman Lefor and members of the and members of the House Industry, Business and Labor, Committee. My name is Sommer Frohlich. I am a junior in college through Minot State at Bismarck State College and was born and raised here in Bismarck. I am here today to testify in opposition to House Bill 1152.

I have asthma and I have personally made the decision to not use tobacco products so I can take care of my body. The current North Dakota Smoke Free law makes it possible for me to go out with friends, to work, and to the mall while still being able to breath fresh air. I love that I can go out in public without having to worry about my asthma acting up from breathing in secondhand smoke.

I am really concerned about allowing smoking cigars indoors. Not only would it limit me to where I could go and enjoy time with friends, but it also exposes workers, and customers. The person who chooses to smoke is not the only one being affected. I am old enough to remember growing up when there were sections in restaurants that were for smoking or nonsmoking. As a child I dreaded going out to eat because the smoke would make me feel sick.

Growing up I have been able to travel to other states in the U.S. Some of the places I visited did not have smoking restrictions. People could smoke in restaurants and our hotel lobby. Being in these states made me appreciate my home state of ND so much more. In the summer of 2019, I also had the opportunity to travel to a country in the Middle East. When we landed in the airport, I could not believe that people could smoke in the terminal and lounges. This was very eye opening to me about how good we have it in ND. Because of my asthma, it was very hard for me to sit in the airport for a layover and constantly breath in the smoky air. In ND I am so grateful that I can be guaranteed safe air to without limitations. I love that we can take care of our community and make public places safe for everyone.

I recognize just how deadly all tobacco products are including cigars. If our smoke free law were to exempt cigars, we would be exposing people who choose not to use these products to secondhand smoke. I also have concerns that if restrictions are loosened, it encourages others to try tobacco products. Especially young adults, like me who are in college, by creating a social norm.

I am a firm believer in North Dakotans looking out for one another, and our current smoke free law does just that. By having a strong statewide smoke free law, we are watching out for one another and protecting youth. Please oppose HB 1152 because why change something that North Dakota is known for? We must continue to care for one another. Thank you for your time. This concludes my testimony.

4394

AMERICAN NONSMOKERS' RIGHTS FOUNDATION

2021

Heart Disease and Secondhand Smoke: Bibliography

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1/13/2021

Heart Disease and Secondhand Smoke

Research Bibliography

This partial bibliography of studies is provided for informational purposes only. It should not be considered to replace medical advice from your physician, nor should it be considered as a list of every existing study on this topic. The ANR Foundation is unable to provide copies of any of the studies. Links to either the study's abstract or full text are provided when available. The citations referenced below are presented without comment regarding the source, including any potential conflict of interest. Due diligence is recommended in researching the source of any given study before relying on its conclusions.

I. The first part of this bibliography lists studies into the effects of secondhand smoke exposure on the heart.

II. The second part lists studies into the impact of smokefree air laws on heart disease.

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Nicotine & Tobacco Research, Volume 15, Number 3 (March 2013) 745–747

4395

BRIEF REPORT

Impact of a Comprehensive Smoke-Free Law Following a Partial Smoke-Free Law on Incidence of Heart Attacks at a Rural Community Hospital

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Received May 21, 2012; accepted August 23, 2012

ABSTRACT

Introduction: Secondhand smoking (passive smoking) is associated with many negative health effects, primarily respiratory and cardiovascular diseases. Approximately, 46,000 deaths from cardiovascular disease are associated with secondhand smoke exposure annually in the United States, which is roughly 150 deaths in North Dakota. Studies show that passage of smoke-free laws at the community level can reduce the incidence of heart attack.

Methods: We conducted a retrospective review of electronic medical records of patients admitted for heart attacks 4 months prior (April 15, 2010 through August 14, 2010) to implementation of the smoke-free ordinance and 4 months following (August 15, 2010 through December 14, 2010) implementation of the comprehensive smoke-free ordinance in Grand Forks, ND, United States.

Results: We found an association between the heart attack rate and implementation of the comprehensive smoke-free law. The heart attack rate prior to the ban was 0.5% (83/16,702) compared with 0.3% (63/18,513) after the ban ($p = .023$). Thus, the rate of heart attacks decreased 30.6% and number of heart attack admissions decreased 24.1%, from 83 to 63, after implementation of a comprehensive smoke-free law.

Conclusions: We found an implementation of the comprehensive smoke-free law was associated with a decrease in the heart attack rate. The heart attack rate decreased 30.6%. Our finding was similar to previous community level smoke-free law implementation studies and notable for the change going from a partial smoke-free law to a comprehensive smoke-free law.

INTRODUCTION

Secondhand smoking (passive smoking) is associated with many negative health effects, primarily respiratory and cardiovascular diseases (Institute of Medicine, 2009; U.S. Department of Health and Human Services, 2006). Approximately, 46,000 deaths from cardiovascular disease are associated with secondhand smoke exposure annually in the United States. (Myers, 2010), which is roughly 150 deaths in North Dakota. Secondhand smoke, even in brief exposure, can increase risk of heart attack and those with pre-existing heart disease are at particular risk (U.S. Department of Health and Human Services, 2006). Studies show that passage of smoke-free laws at the community level can reduce the incidence of heart attack (Bartecchi, Alsever, Nevin-Woods, Estachio, Bartleson, & Krantz, et al., 2006; Bruintjes, Bartelson, Hurst, Levinson, Hokanson, & Krantz, 2011; Herman & Walsh, 2011; Lemstra, Neudorf, & Opondo, 2008; Myers, 2010; Naiman, Glazier, & Moineddin, 2010; Sargent, Shepard, & Glantz, 2004). However, another study found no significant difference in the acute myocardial infarction (AMI) mortality in six states with bans compared with other states with no ban (Rodu, Peiper, & Cole, 2011).

On August 15, 2010, Grand Forks, ND, implemented a smoking ban ordinance. Prior to the comprehensive law, the city had a partial smoke-free workplace law that had exempted bars and other select areas and businesses. The purpose of this study was to determine whether a smoking free ordinance was associated with decreased hospitalization for heart attack. Specifically, data from a rural community hospital were used to compare admissions for myocardial infarction (MI) and acute coronary syndrome 4 months prior to and 4 months following the implementation of the comprehensive smoke-free ordinance.

doi:10.1093/ntr/nts216
Advance Access publication September 27, 2012
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Table 1. Comparison of Clinical and Demographic Characteristics of Patients Hospitalized for Heart Attack, 2010

Characteristic	Total 100% (n = 146)	Prior ban 56.9% (n = 83)	After ban 43.1% (n = 63)	p Value
Heart attack rate[a]	0.42 (146)	0.49 (83)	0.34 (63)	.023
Age, mean ± SD	65.3 ± 14.0	67.0 ± 13.4	63.1 ± 14.7	.093
Gender, men	61.0 (89)	56.6 (47)	66.7 (42)	.218
Death rate	17.1 (25)	21.7 (18)	11.1 (7)	.093

Note. [a]Heart attack rate = number of heart attacks/total admissions.

Table 2. Comparison of Clinical and Demographic Characteristics of Hospitalized Patients, 2010

Characteristic	Total 100% (n = 35,194)	Prior ban 47.3% (n = 16,693)	After ban 52.6% (n = 18,501)	p Value
Heart attack rate[a]	0.42 (146)	0.49 (83)	0.34 (63)	.023
Age, mean ± SD	48.3 ± 19.6	48.5 ± 19.6	48.2 ± 19.5	.238
Gender, men	40.4 (14,212)	40.1 (6,695)	40.6 (7,517)	.317
Death rate	2.2 (759)	2.5 (421)	1.8 (338)	.000

Note. [a]Heart attack rate = number of heart attacks/total admissions.

METHODS

We conducted a retrospective review of electronic medical records of patients admitted for heart attacks 4 months prior (April 15, 2010 through August 14, 2010) to implementation of the smoke-free ordinance and 4 months following (August 15, 2010 through December 14, 2010) implementation of the comprehensive smoke-free ordinance in Grand Forks, ND, United States. The 4-month timeframe was used to reduce any seasonality impact that the severe winter months of January, February, and March may have on heart attack admissions. Heart attacks were defined using International Classification of Diseases, Ninth Revision (ICD-9) codes for the diagnosis for MI and acute coronary syndrome (ACS), specifically: 410.90-AMI of unspecified site, episode of care unspecified; 410.91-AMI of unspecified site, initial episode of care; 411.1-intermediate coronary syndrome. Heart attack rate was defined as the number of heart divided by the total number of admissions for the given period. The institutional review boards of the University of North Dakota and Altru Health Systems approved this study.

Setting

Grand Forks, ND has a population of 55,600 with approximately 92% being White. Altru Health Systems is a rural, community-based hospital and clinics with 3,800 health professionals serving 200,000 residents of northeast North Dakota and northwest Minnesota. Altru Health Systems hospital, a 262 bed acute care center, is the only one in Grand Forks and within a 70 mile radius. As a result, within the community, the intended public health benefit of the smoke-free law could be more easily assessed compared with larger urban areas with multiple medical centers. Data were limited to patients from the metro area of Grand Forks (zipcodes 58201, 58202, 58203, and 58206). Similar to the Helena, MT (Sargent et al., 2004) and Pueblo, CO (Bartecchi et al., 2006) studies, only patients that made it to hospital alive were included in the study. Patients transferred from other facilities in the region were not included in the study because in all likelihood the patient lived outside Grand Forks and thus would not be significantly impacted by the ordinance.

SPSS 19.0 for Windows was used to analyze demographic and clinical characteristics of patients. Frequencies and relative percentages were computed for each categorical variable. Chi-square tests were performed to determine which categories were significantly different from one another, and t test was used to compare continuous variables. All p values were two-sided, and p value < .05 was considered significant. Missing data were excluded from analysis.

RESULTS

Overall, during the entire study period, the heart attack rate was 0.4% (n = 146), with 17.1% (25) resulting in death (Table 1). The average age for heart attack patients was 65.3 ± 14.0 years and 61.0% (n = 89) were men.

There was an association between heart attack rate and implementation of the comprehensive smoking ban. The heart attack rate decreased from 0.5% (83/16,702) prior to the ban compared with 0.3% (63/18,513) after the ban (p = .023, Table 1). Thus, the heart attack rate decreased 30.6% and the number of heart attack admissions decreased 24.1%, from 83 to 63, after implementation of a comprehensive smoke-free law. However, there was no association in the death rate and the comprehensive smoking ban, 21.7% (n = 18) prior versus 11.1 (n = 7) after (p = .093, Table 1). There was no association between gender or significant difference in age in heart attack patients prior or after the implementation of a comprehensive smoke-free law (Table 1).

During the study period, there were a total of 35,215 total admissions. The average age for patients admitted was 48.3 ± 19.6 years and 40.4% (n = 14,212) were men (Table 2). There were no significant differences in gender or age between

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the total admissions before and after the implementation of a comprehensive smoke-free law. However, the death rate significantly decreased after implementation of a comprehensive smoke-free law compared with before, 1.8% (n = 338) versus 2.5% (n = 421), ($p < .001$, Table 2).

CONCLUSIONS

We found an association between the heart attack rate and implementation of the comprehensive smoke-free law. The heart attack rate decreased 30.6% and the number of heart attacks decreased by 24.1% after implementation of a comprehensive smoke-free law. This is comparable to results of similar community studies following the implementation of smoke-free laws including Bartecchi et al. (2006), who found a 27.1% decrease in AMI rates. Given that the community in this study already had a partial smoke-free workplace law prior to the study dates, the effect is of particular interest.

There are a number of limitations to our study. Our study was a before and after ecological study design and thus case and effect cannot be determined, only association. Many other factors may have impacted the results. Also, the study did not measure individual smoking habits or exposure to secondhand smoke. Another limitation is we did not collect data or control for other potential risk factors (i.e., comorbidities, seasonality).

The results of this study and others suggest that smoking bans may be associated with reduction in heart attack admissions (MI and ACS). Future directions should include assessment of any persistent effect of decreased heart attack incidence over longer periods of time and controlling for other risk factors.

FUNDING

Center for Tobacco Prevention and Control.

DECLARATION OF INTERESTS

None declared.

ACKNOWLEDGMENTS

The authors wish to thank Brad Larsen and Aleksander Hettich from the Altru Health System Information Services for providing the data. We also thank Jeanne Prom from the Center for Tobacco Prevention and Control. An executive summary of this data was made available on the Center's Web site as a press release.

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Feb 1, 2021 # 4396

Re: HB 1152 House Industry, Business, and Labor Committee

Dear Mr. Chairman and Honorable Committee Members:

My name is Eric L. Johnson, M.D. I'm unable to join you in person today, but I wanted to take a few minutes to re-articulate my position on tobacco related disease and secondhand smoke. I represent myself as a private citizen and a practicing physician in North Dakota and do not represent my employers or other affiliations.

You'll hear plenty of other fact based testimony today regarding the benefits of reducing tobacco use in our communities to reduce death, disability, disease, but maybe not always thought of or mentioned, health care costs. I know in the session this year, health care costs are front and center. If we are having a serious discussion about health care cost, we can't ignore tobacco related injury, be it from primary tobacco use by the user or in the form of secondhand smoke.

I have been a primary care physician for 28 years here in North Dakota, and I have seen overwhelming numbers of persons with tobacco related disease. I've also seen tobacco related disease who never used tobacco but did have known secondhand smoke exposure.

I want to join everyone here today in acknowledge the fact that North Dakota has had one of the most well-written and comprehensive smoke free laws in the country, I don't think any of us would disagree with that, and the benefits are real.

At the time of implementation of the Grand Forks Smoke Free ordinance a year or so ahead of the state law, I promised the City Council and Mayor of Grand Forks that myself and another researcher from the medical school would study any possible benefit from have a such an ordinance. So, we did.

One of the better markers for smoke free benefit is the incidence of heart attack in a community before and after smoke free. At the time, many of these research studies existed from other communities around the country. A summary of these studies is attached, which includes ours from Grand Forks.

In short, our study showed an approximate decrease of the heart attack rate in Grand Forks by about 30%. This was measured at the largest hospital in the county. This study went on the be published in one of the leading tobacco research journals, Nicotine and Tobacco Research, which is peer reviewed, in 2012. This data is consistent with many other studies published in the last 20 years. Presumably, fewer heart attacks means less cost, and we must consider that as well. This data helped considerably in forming our smoke free law. Evidence-based was very important to us and remains so.

Please consider all of these medical factors as you vote regarding the strength of North Dakota's widely-admired smoke free law. None of these laws are written with purpose of harming or demonizing smokers. They are explicitly about reducing tobacco related disease and related health care costs.

Thank you for your time today.

Respectfully Submitted,

Eric L. Johnson, M.D.
Grand Forks, ND
701 739 0877

4489

TESTIMONY OPPOSITION OF HB 1152

Katarina Zimmerman
1125 Tacoma Ave #101
Bismarck, ND 58504
701-595-3120

Chairman Lefor, and members of the House Industry, Business and Labor Committee. My name is Katarina Zimmerman, I am a College intern at the Bismarck Public Health Substance Abuse Prevention program. I am here to provide testimony and oppose HB 1152.

While visiting Las Vegas four years ago, they still allowed people to smoke within the buildings. There was a lot of smoking. I get sick when I smell smoke. I get headaches, sometimes I will even get dizzy and have an upset stomach. Even though in Las Vegas the area was huge, second hand smoke still cluing's to everything. You can never get rid of smoke 100% even if you have the "proper" ventilations or by having a large space. Smoke will follow you. I love that ND has a smoke free law because it protects my family and I from secondhand smoke and illness caused by it. According to the American Lung Association: Smoking is the No. 1 cause of lung cancer. It causes about 90% of lung cancer cases.[1] I am concerned about health problems caused by second hand smoke, I want to live a long healthy life and especially since I have a younger child. What if the cigar bar was located in the strip mall, next to Dairy Queen, my son and myself would be exposed to secondhand smoke. I don't want him ever being subject to the possibility of inhaling second hand smoke. Second hand smoke carries with that person, on their clothes and hands. I wouldn't want to smell smoke while eating or anywhere for that matter, why should we allow others or youth experience second hand smoke when there are clearly health related problems to it.

In North Dakota, kids under 18 who become new daily smokers each year is 200. That is a lot of children becoming smokers. As a mother of a 6-year-old, I ask the House

Industry, Business and Labor Committee to vote no on HB 1152. We have made great strides in our community with reducing tobacco use rates and protecting individuals from secondhand smoke. Let's continue with our great work and not go backwards. Thank you. This concludes my Testimony.

Source

1. https://www.breathend.com/news/avoidsmoking/

4499

TESTIMONY OPPOSITION OF HB 1152

2/1/2021

Re: HB 1152 House Industry, Business and Labor Committee

Chairman Representative Lafor, and members of the House Industry, Business and Labor Committee. My name is Marie Jensen. I am a registered nurse and tobacco treatment specialist. I am also a board member of the Bismarck Tobacco Free Coalition. Unfortunately, I am unable to join you today. This is my written testimony in opposition of HB 1152.

I strongly oppose this bill because it is important for me to protect the North Dakota Smoke Free Law as it is currently written because all North Dakotans deserve to live and work in a smoke-free environment. If Cigar Bars and Cigar Lounges are excluded from the Smoke Free Law and allow indoor smoking of their products sold, every patron and employee of that establishment will be exposed to the harmful, lethal, effects of second- and third-hand smoke. There is potential for any adjacent property to also suffer the effects of second- and third-hand smoke because we know that heating and ventilation systems are not 100% efficient at removing smoke from the air.

The health risks associated with cigar smoking are not questionable or defensible. If the Smoke Free Law is changed as proposed, it will send a clear message to adolescents and adults that our North Dakota leaders support the use of tobacco and ignore the harmful effects of second- and third-hand smoke. As a nurse and TTS, I assist individuals with quitting tobacco products. The ND Smoke Free Law provides a safe environment that encourages these individuals to be smoke-free and not exposed to triggers such as the sight of another smoking and the odor of second-hand smoke. The health consequences from any tobacco use are devastating.

I urge you to oppose HB 1152 because our current Smoke Free Law is one of the biggest public health accomplishments in North Dakota. ND has been recognized in the 2016 Surgeon General Report as a model law. We are proud of the Smoke Free Law as it is written. This law is the vaccine against second-hand smoke exposure and creates equality for everyone to breathe clean air. As a nurse and TTS, I am passionate about preserving and upholding our Smoke Free Law to keep our ND citizens and my patients healthy.

I ask the House Industry, Business and Labor Committee to vote “NO” on HB 1152. Thank you for your thoughtful consideration. Please contact me if you have any questions.

Very Respectfully,

Marie Jensen, BSN, RN, CLC, TTS

6500 Omar St Bismarck, ND 58504

701-471-9729

4642

My name is Kameron Hymer and I reside at 1706 1st Ave W in Williston, ND.

I am writing to ask that you support House Bill No. 1152, a bill for an act to amend and reenact section 23-12-10 of the North Dakota Century Code, relating to cigar bars and lounges.

I agree with bans on smoking in most public places, however premium cigars attract a niche market and are unfairly tied into the North Dakota Smoke Free law which does not allow an exemption for tobacconists. After the passing of the Smoke Free law in 2012, it led to some tobacconists in the state going out of business. As of July 2018, 26 states have enacted bans on smoking in enclosed places. All but seven of those states have exempted tobacconists. Cigar lounges (bars) are typically only visited by those who smoke premium cigars. By allowing cigar lounges, it would not subject the general public to unwanted second-hand smoke.

With our long winters, a lounge would be a great place to escape the cold and enjoy a cigar with friends. South Dakota has exemptions for cigar lounges and I visit one in Rapid City when I make my way down there. It's a very relaxing atmosphere.

I appreciate your time and consideration related to this matter.

Sincerely,

Kameron Hymer

(701) 412-7929

2021 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Room JW327C, State Capitol

HB 1152
2/3/2021

Cigar bars & lounges.

(4:09) Chairman Lefor called the hearing to order.

Representatives	Attendance
Chairman Lefor	P
Vice Chairman Keiser	P
Rep Hagert	P
Rep Jim Kasper	P
Rep Scott Louser	P
Rep Nehring	P
Rep O'Brien	P
Rep Ostlie	P
Rep Ruby	P
Rep Schauer	P
Rep Stemen	P
Rep Thomas	P
Rep Adams	P
Rep P Anderson	P

Discussion Topics:

- Committee work.

Rep D Ruby moved a Do Pass.

Rep Schauer second.

Representatives	Vote
Chairman Lefor	N
Vice Chairman Keiser	N
Rep Hagert	N
Rep Jim Kasper	Y
Rep Scott Louser	Y
Rep Nehring	Y
Rep O'Brien	N
Rep Ostlie	N
Rep Ruby	Y
Rep Schauer	Y
Rep Stemen	N
Rep Thomas	Y
Rep Adams	N
Rep P Anderson	N

Vote roll call taken Motion failed 6-8-0

Vice Chairman Keiser moved a Do Not Pass.

Rep Hagert second.

Representatives	Vote
Chairman Lefor	Y
Vice Chairman Keiser	Y
Rep Hagert	Y
Rep Jim Kasper	N
Rep Scott Louser	N
Rep Nehring	Y
Rep O'Brien	Y
Rep Ostlie	Y
Rep Ruby	N
Rep Schauer	N
Rep Stemen	Y
Rep Thomas	N
Rep Adams	Y
Rep P Anderson	Y

Vote roll call taken Motion carried 9-5-0 & Rep O'Brien is the carrier.

(4:14) End time.

Ellen LeTang, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1152: Industry, Business and Labor Committee (Rep. Lefor, Chairman) recommends **DO NOT PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1152 was placed on the Eleventh order on the calendar.

2021 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Room JW327C, State Capitol

HB 1152
2/9/2021

Cigar bars & lounges.

(3:39) Chairman Lefor called the work session to order.

Representatives	Attendance
Chairman Lefor	Y
Vice Chairman Keiser	Y
Rep Hagert	Y
Rep Jim Kasper	N
Rep Scott Louser	Y
Rep Nehring	Y
Rep O'Brien	Y
Rep Ostlie	Y
Rep Ruby	Y
Rep Schauer	Y
Rep Stemen	Y
Rep Thomas	Y
Rep Adams	Y
Rep P Anderson	Y

Discussion Topics:

- Committee work.

Rep Louser moved to reconsider.

Rep Kasper second.

Voice vote Motion carried.

Rep D Ruby moved a Do Pass.

Rep Kasper second.

Representatives	Vote
Chairman Lefor	Y
Vice Chairman Keiser	N
Rep Hagert	N
Rep Jim Kasper	Y
Rep Scott Louser	Y
Rep Nehring	Y
Rep O'Brien	N
Rep Ostlie	N
Rep Ruby	Y
Rep Schauer	Y
Rep Stemen	N
Rep Thomas	Y
Rep Adams	N
Rep P Anderson	N

Vote roll call taken Motion failed due to a tie. 7-7-0.

Rep Louser moved the recommendation “without committee recommendation”.

Rep Stemen second.

Representatives	Vote
Chairman Lefor	Y
Vice Chairman Keiser	Y
Rep Hagert	Y
Rep Jim Kasper	N
Rep Scott Louser	Y
Rep Nehring	Y
Rep O'Brien	Y
Rep Ostlie	Y
Rep Ruby	N
Rep Schauer	Y
Rep Stemen	Y
Rep Thomas	Y
Rep Adams	Y
Rep P Anderson	Y

Vote roll call taken Motion carried 12-2-0 & Rep O'Brien is the carrier.

(3:49) End time.

Ellen LeTang, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1152: Industry, Business and Labor Committee (Rep. Lefor, Chairman) recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1152 was placed on the Eleventh order on the calendar.

2021 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1152

2021 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Fort Union Room, State Capitol

HB 1152
3/9/2021

relating to cigar bars and lounges

Chair Klein opened the hearing at 2:30 a.m. All members were present. Senators Klein, Larsen, Burckhard, Vedaa, Kreun, and Marcellais.

Discussion Topics:

- H-Vac systems
- Cigar lounge specifications
- Definition of Cigar Bar and Cigar Lounge
- Tax on Cigar Lounges

Representative Dan Ruby introduced the bill [14:30].

Senator Oley Larsen testified in favor and submitted testimony #8390 [14:45].

Josette Severson, Prairie Patriot Firearms Training in Mandan, ND testified in favor and submitted testimony #8387 [15:03].

Shaun Sipma, Minot Resident testified in support and submitted testimony #8241 [15:07].

Rudie Martinson, Director of ND Hospitality Association testified in favor [15:21].

Shannon Ficsher, Tax Commissioner's Office testified neutral [15:24].

Neil Charvat, Director of Tobacco Prevention and Control testified in opposition and submitted testimony #8184 [15:28].

Heather Austin Tobacco Free ND testified in opposition and submitted testimony #8176, 8177, 8178, 8179 [15:35].

Jessica Arndt, Bismarck Tobacco Free Coalition testified in opposition and submitted testimony #7933 [15:49].

Joelean Lowman, High School Teacher testified in opposition and submitted testimony #7977 [15:54].

Madeline Erickson, National Youth Ambassador for the Campaign for Tobacco Free Kids testified in opposition and submitted testimony #8132 [15:58].

Mike Krumwiede, American Heart Association testified in opposition and submitted testimony #8256 [16:04].

Susan Kahler, Substance Abuse Prevention Coordinator Bismarck Burleigh Public Health testified in opposition and submitted testimony #7906 [16:08].

Additional written testimony:
7526, 7649, 7657, 7788, 7822, 7877, 7912, 7929, 7939, 7956, 8017, 8079, 8168 and 8255.

Chair Klein ended the hearing at 4:15 p.m.

Isabella Grotberg, Committee Clerk

#8390

Systematic review of the prevalence of current smoking among hospitalized COVID-19 patients in China: could nicotine be a therapeutic option?

Konstantinos Farsalinos [1], Anastasia Barbouni [2], Raymond Niaura [3]

Affiliations

PMID: 32385628 PMCID: PMC7210099 DOI: 10.1007/s11739-020-02355-7

Free PMC article

Abstract

The effects of smoking on Corona Virus Disease 2019 (COVID-19) are currently unknown. The purpose of this study was to systematically examine the prevalence of current smoking among hospitalized patients with COVID-19 in China, considering the high-population smoking prevalence in China (26.6%). A systematic review of the literature (PubMed) was performed on April 1. Thirteen studies examining the clinical characteristics of hospitalized COVID-19 patients in China and presenting data on the smoking status were found. The pooled prevalence of current smoking from all studies was calculated by random-effect meta-analysis. To address the possibility that some smokers had quit shortly before hospitalization and were classified as former smokers on admission to the hospital, we performed a secondary analysis in which all former smokers were classified as current smokers. A total of 5960 patients were included in the studies identified. The current smoking prevalence ranged from 1.4% (95% CI 0.0-3.4%) to 12.6% (95% CI 10.6-14.6%). An unusually low prevalence of current smoking was observed from the pooled analysis (6.5%, 95% CI 4.9-8.2%) as compared to population smoking prevalence in China. The secondary analysis, classifying former smokers as current smokers, found a pooled estimate of 7.3% (95% CI 5.7-8.9%). In conclusion, an unexpectedly low prevalence of current smoking was observed among patients with COVID-19 in China, which was approximately 1/4th the population smoking prevalence. Although the generalized advice to quit smoking as a measure to reduce health risk remains valid, the findings, together with the well-established immunomodulatory

HB 1152 cigar bars and lounges

Cigar bars & Lounge, a legal business that will build networking and a relaxing experience. It's time to let this entrepreneurial opportunity thrive in our communities.

Inside air technology makes the air quality better than outside air quality

www.rabbitair.com https://www.youtube.com/watch?v=lX8FZxNAMfE

Bill Highlights

Required air ventilation
no cigarettes
only premium cigars
Cigar Bar means: A bar that generates ten percent or more of the bar's annual gross income from the sale of cigars.
Cigar Lounge means: A business dedicated, in whole or in part, to the smoking of cigars which generates thirty percent or more of the business's annual gross income from the sale of cigars.

HB 1152
March 9, 2021

Josette Severson
Home Address: 206 13th Ave NE, Mandan, ND 58554
701-214-1786

Representatives,
My Name is Josette Severson. I own Prairie Patriot Firearms Training in Mandan. In addition to my range and training center, I sell firearms, accessories and cigars. One of the common themes I hear from my cigar guests is "why can't you start a cigar lounge so we have somewhere indoors to smoke our cigars".

The firearms industry is one that not everyone supports. Those who choose to frequent my range support their right as Americans to enjoy the shooting sports or for personal protection. Like firearms, the cigar industry is also one that not everyone supports. Thankfully we live in a country that allows their citizens the freedom of choice to indulge in what they enjoy, be it shooting or a good cigar.

With my range and training facility, I adhere to all the state and federal rules and regulations for operating a safe, clean facility. My guest's well-being is the core of my business.

Today, I am asking for myself and other business owners to have the opportunity to operate cigar bars and lounges. HB 1152 details the professional rules and regulations that will ensure a safe environment to enjoy a cigar with other like-minded citizens.

A safe environment will include a standard HVAC system that will circulate air, along with a powerful, commercial smoke eater. Smoke eaters draw smoke through a series of filters that collect harmful

particles and odors before discharging fresh, clean air. A blower draws air into the unit. The unit captures
Particulate, haze, in a HEPA (high-efficiency particulate arrestor) filter and smoke odors in a carbon filter. A good commercial smoke eater will be able to remove about 95 percent of smoke particles on each pass through the filter.

I'm a fine, upstanding North Dakota citizen that enjoys a good cigar. If fellow North Dakotans will have the opportunity to enjoy recreational marijuana – why can't I have the right to a cigar at a legally, regulated cigar lounge?

Thank you for the opportunity to hear my testimony. I will take any question you may have.

Senate Industry, Business & Labor
Chairman – Representative Jerry Klein
March 9, 2021

Testimony

By: Shaun Sipma
Minot, ND Resident
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701-721-6839

HB 1152

Good afternoon Chairman Klein and members of the Senate Industry, Business and Labor Committee. My name is Shaun Sipma and I am a resident of Minot. Thank you for the opportunity to testify today in support of House Bill 1152.
It's been more than nine years since our City's only cigar-lounge closed stemming directly from the smoking ban passed by a statewide vote. The Great Plains Smoke Shop was owned by a retired Air Force veteran. The Great Plains Smoke Shop had one full time employee with several part time people employed. The Garage Lounge that was connect to Great Plains, was also owned by the same Air Force Veteran and had approximately 5 part-time employees. Both businesses were small but generated a lot of revenue for a business of its size. Great Plains also hosted numerous fundraisers each year with benefits going to Wounded Warriors and the Mid-Dakota Chapter of the American Red Cross to name just a few. North Dakota Cigarfest also came to be as an annual event that brought as many as 250 people from around the region to the event.
The Garage Lounge being a beer bar was a niche business to put it plainly. Beer and Cigars. People who patronized the bar were there for exactly those reason. Those that didn't appreciate the atmosphere would simply choose to go somewhere else.
As both businesses closed, the Garage Lounge first shortly after the smoking ban followed by Great Plains Smoke shop about three years later, all of the sales of

cigars have gone on-line. I know because that's where I buy mine. Cigars International.com, Cigar.com, Thompson Cigar.com, JR Cigars.com are just a few of the places where purchases are made. Based on cigar forums on-line on various social media platforms I can attest I am far from the only person that took my business elsewhere when "Buy Local" was regulated out of business.

I have no doubt the anti-smoking coalition will be here today to talk about the dangers of second hand smoke and health factors. There are risks, different from cigarette and vaping and the FDA has its own study to show cigars being far less dangerous than the two previously mentioned. A quick good of Cigars, FDA & Study will guide you to that report from 2016.
So let's focus a bit more risk. Never once was the fast food restaurant next to the Garage Lounge targeted for closure. In regards to the smell that others have questions would be a problem or pollutant to the community, never once did Great Plains or the Garage Lounge have a smell complaint. The smell of high concentrations of fat, cholesterol and sodium overpowered likely far overpowered the cigars. Or it could have been North Broadway with the diesel belching lifted pickups and semi's passing by that could have overshadowed the smell with diesel exhaust. I'm being a bit over dramatic on purpose. Minot Ryan School sat across the alley from Great Plains Smoke Shop and never once had a complaint. Nor did students ever walk over to Great Plains to Shop or try and buy cigars. I did on many occasions see students at that fast food restaurant buying Ice Cream or that tasty less than healthy food.
Each time I've testified, this session and last my other Job always comes up concerning public health. I'm talking about being Mayor of course. When it comes to freedom of choice and risk, this is not the slippery slope that others like to try and hang and argument on. I would argue fast food is so popular because it's cheaper and more convenient than healthy food. We've heard lots of studies reports on the substantial risks of being overweight and yet the no one is clamoring to shutter those doors or ban the sale of fast food. As a matter of fast just yesterday (March 8, 2021) the CDC released a study showing 78% of people hospitalized with COVID were overweight or obese. The tired argument that cigarette smoking and cigar smoking are the same is not valid and again I would reference the 2016 FDA study for the difference.
Cigars are not cheap and having a cigar lounge is not the convenience likely will

be painted to draw in hordes of new people to start cigar smoking.
The price point keeps most people away from cigars and keeps most from smoking cigars on a regular basis. Most cigars range in price from 8 to 20 dollars each.
For me, this comes down to a simplistic point, cigar smokers who enjoy the leisure activity are still smoking cigars. We are now in our garage or outbuilding during the winter or sitting on our patio or golf course during the summer. The difference is our money is going out-of-state to online companies rather than being spent locally.
The pendulum of regulation has swung entirely too far. This all comes as the debate of recreational marijuana is moving through the legislative body this session.
Thank you for the opportunity to testify today and please consider a Do-Pass recommendation on House Bill 1152.
I'd be happy to stand for questions.

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House Bill 1152
Senate Industry, Business and Labor Committee
March 9, 2021, 2:30 p.m.

Good Afternoon, Chairman Klein and members of the Senate Industry, Business, and Labor Committee. My name is Neil Charvat, and I am the Director of the Tobacco Prevention and Control Program for the North Dakota Department of Health. I am here to provide testimony in opposition to House Bill 1152, relating to cigar bars and lounges.

Tobacco prevention and control efforts in North Dakota focus on guidance provided by the Centers for Disease Control and Prevention (CDC) *Best Practices for Comprehensive Tobacco Control Programs* (Best Practices). Best Practices provide evidence-based interventions to prevent tobacco product use initiation; increase quitting tobacco use and reduce exposure to secondhand smoke. House Bill 1152 will create an exemption for North Dakota businesses to provide an environment that exposes the public, especially employees, to secondhand smoke in the workplace.

In November 2012, North Dakotans overwhelmingly approved Initiated Measure 4 with 66.67% approval. This measure removed exemptions from the 2005 State Smoke-Free Law. The remaining exemptions mainly applied to bars, truck stops, and public lodging. The intent was to protect North Dakota citizens from unnecessary exposure to secondhand smoke in indoor public venues. Cigar smoke is not different from the smoke of other commercial tobacco products. No exceptions were granted for cigars in 2005 and 2012.

According to the 2019 North Dakota Adult Tobacco Survey, the adult smoking rate for cigars is 4.3%. House Bill 1152 seeks to make changes to an effective smoke-free law to benefit 4.3% of North Dakota citizens. Commercial tobacco products, including cigars, are legal. Other than purchase restrictions related to age and the indoor smoke-free law, there are no limits on cigar usage. No laws are prohibiting the private use of cigars. There is nothing stopping citizens from using cigars indoors outside of business settings. North Dakota adults may choose to purchase and use cigars.

The North Dakota smoke-free law efforts of 2005 and 2012 are public health victories to protect North Dakota workers from the harmful effects of secondhand tobacco smoke. The products that produce smoke such as cigarettes

and cigars have not become safer since 2005 and 2012. Exposing employees to the dangers of secondhand smoke has not been eliminated as a health concern in 2021. Opponents of the 2005 and 2012 laws made the argument that employees know the risk of working in a secondhand smoke environment. Previous testimony for House Bill 1152 seeks to use this same argument. Employee acknowledgment of dangerous work environments does not exempt them from willingly working in these environments. Public health and safety cannot be suspended due to acknowledgment of the issue. The construction industry provides an example: rules requiring hard hats or the need to be tethered when working in high places are not suspended because workers know that not wearing these devices is dangerous. Employee health and safety laws are for the employees' benefit, not the business owner's profitability and convenience. Workers in the proposed cigar bars and lounges deserve the same protections as all North Dakota workers.

The North Dakota Department of Health does not differentiate between tobacco products like cigarettes and cigars. The three cigars types sold in the United States are large cigars, cigarillos, and little cigars. Cigars are not proven to be healthier or less dangerous than cigarettes. For every gram of tobacco smoked, there is more cancer-causing tar in cigars than in cigarettes. Cigar wrappers are less porous than cigarette wrappers and make burning of cigar tobacco less complete than the burning of cigarette tobacco. As a result, cigar smoke has higher concentrations of toxins than cigarette smoke. Smokers using cigars experience heart disease, cancer, and other types of illnesses that cause over 1,000 North Dakotans' death per year.[1]

House Bill 1152 allows for indoor smoking. The bill defines a lounge as "enclosed by solid walls or windows, a ceiling, and a solid door; and is equipped with a ventilation system by which exhausted air is not recirculated to nonsmoking areas, and smoke is not backstreamed into nonsmoking areas." This language gives the appearance of mitigating the dangers of secondhand smoke indoors through ventilation. Ventilation systems do not work to protect the public from this danger. The American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) identifies the ineffectiveness of ventilation systems in their position statement on the subject:

[1] https://cancercontrol.cancer.gov/brp/tcrb/monographs/monograph-09

> *"At present, the only means of effectively eliminating health risks associated with indoor exposure is to ban smoking activity… No other engineering approaches, including current and advanced dilution ventilation or air cleaning technologies, have demonstrated or should be relied upon to control health risks from ETS [environmental tobacco smoke] exposure in spaces where smoking occurs… :*

An exemption for one tobacco product may lead to additional exemptions for other tobacco products, such as hookah lounges, currently not allowed under the North Dakota Smoke-Free Law. Product exclusivity should not be equated with a legal exemption to smoke inside a public place of business. The North Dakota Smoke-Free Law has been providing this legal level playing field for all businesses since 2012.

Prior to 2012, many North Dakota communities implemented smoke-free laws that mirror the 2012 smoke-free law. Grand Forks, Fargo, West Fargo, Bismarck, Minot, and others have city ordinances prohibiting smoking in all indoor workplaces; these are all home-rule communities. House Bill 1152 does not preempt these ordinances; hence, passing House Bill 1152 would provide unequal exemptions for some cities to allow cigar bars and lounges. These exemptions will create confusion for business owners, city and county governments, and law enforcement agencies.

The 2012 North Dakota Smoke-Free Law is an exceptional public health policy achievement. It protects the public from the dangers of secondhand smoke exposure. It addresses the emerging issues of the risks of electronic nicotine delivery systems (ENDS), also known as e-cigarettes and vaping. The 2016 *E-Cigarette Use Among Youth and Young Adults: A Report of the Surgeon General* applauds the North Dakota 2012 Smoke-Free Law as a significant policy success to protect our citizens. House Bill 1152 seeks to change the current smoke-free law to create places that put patrons, employees, and anyone in the immediate area at risk of sickness and death from secondhand smoke to provide an exemption for a niche business. Clean air remains the standard to protect health.

This concludes my testimony. I am happy to answer any questions you may have.

Tobacco Surveillance Data

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Indicator	2011	2013	2015	2017	2019
Tobacco Use (Used at least once in past 30 days)					
Cigarette Smoking					
Adult (BRFSS*)[1]	21.9	21.2	18.7	18.3	17.0
High School (YRBS)[1]	19.4	19.0	11.7	12.6	8.3
American Indian[2]	52.0	44.0	42.1	51.3	35.1
Pregnant (smoked cigarettes during 1st trimester)[3]	16.0	15.1	13.8	11.5	10.3
Low Income[4]	29.5	32.0	31.8	33.4	30.6
Low Education[5]	33.0	33.2	31.5	31.0	27.7
Smokeless Tobacco[6]					
Adult (BRFSS*)	8.2	7.6	7.5	6.2	6.6
High School (YRBS)				8.0	4.5
Cigars[7]					
Adult (ATS)			4.4	5.3	4.3
High School (YRBS)	13.5	11.7	9.2	8.2	5.2
E-Cigarettes[8]					
Adult (ATS)			16.0	19.6	22.1
Adult (BRFSS*)				20.7	
High School (YTS)	1.6	6.0	19.1	19.1	29.4
High School (YRBS)			22.3	20.6	33.1
Any Tobacco Product[9]					
Adult (BRFSS*)				23.4	
High School (YRBS)				28.8	35.5
Tobacco Use Initiation					
Adult - Ever tried electronic cigarettes[10]			21.2	21.2	23.4
High School - Ever tried electronic cigarettes[10]			42.1	41.0	52.8
High School cigarette use before age 13[11]	29.2	21.8	33.3	34.5	
High School smokeless tobacco use before age 13[12]	24.2	17.0	27.2	26.1	
Tobacco Consumption					
Cigarettes Sold - in millions (ND Tax Commission)	965	1,054	1,096	966	890
Annual Cigarette Tax Revenue - in millions	21.3	23.2	24.1	21.2	19.7
Annual Other Tobacco Tax Revenue - in millions	5.1	6.6	7.5	7.0	7.1
Cessation					
Cigarette Smoking Quit Attempts					
Adult (BRFSS*)	53.1	51.0	55.8	54.6	55.1
High School (YRBS)	52.8	55.5	47.4	50.3	54.0
NDQuits - Total Enrolled[13]		3,380	3,319	3,266	3,029
NDQuits - Quit Rate (phone program)[14]		35.6	28.5	40.5†	37.6†
NDQuits - Quit Rate (web program)[14]		25.7	25.6	41.4†	34.2†
Tobacco-related Policy					
Support increasing cigarette tax to $2.00[15]			54.8	57.8	56.7
Health and Economic Consequences					
Deaths Attributed to Tobacco Use[16]					1,000
Deaths Attributed to Secondhand Smoke[17]					80 - 140
Smoking Attributable Medical Expenditures - in millions[18]					$326
Smoking Attributable Productivity Loss - in millions[19]					$232.6

Tobacco Surveillance Data

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*Note: In 2011, the Behavior Risk Factor Surveillance System (BRFSS) began including cell phone-only users in sampling and the method of weighting the results was changed. This makes BRFSS results from 2010 and prior no longer comparable to 2011 and beyond.

[1] Adult current cigarette smoking defined as, of those who have smoked 100+ cigarettes in their life, those who used every day or some days of the past 30 days. Youth current cigarette smoking defined as the proportion of 9-12 grade students who have smoked cigarettes on at least one of the past 30 days.

[2] American Indian current smoking prevalence obtained from the North Dakota Behavior Risk factor Surveillance System (BRFSS) Calculated Variables Report. Data currently unavailable for smokeless tobacco use.

[3] Pregnant women smoking rate obtained from North Dakota Vital Statistics (birth certificate data). It is the percent of women who reported smoking during the 1st trimester. Data currently unavailable for smokeless tobacco use.

[4] Current smoking rate among low income adults (defined as earning less than $15,000 per year). From the North Dakota BRFSS.

[5] Current smoking rate among adults having low education (defined as having less than a high school diploma or GED). From the North Dakota BRFSS.

[6] Adult chewing tobacco use defined as using chewing tobacco, snuff, or snus every day or some days of the 30 days before the survey. High School (grades 9-12) current smokeless tobacco use defined as using chewing tobacco, snuff, dip, snus, or dissolvable tobacco products on one or more of the 30 days before the survey.

[7] Adult and High School current cigar use defined as smoking cigars, cigarillos, or little cigars on one or more of the 30 days before the survey. Adult current cigar use from the North Dakota Adult Tobacco Survey (ATS) and High School (grades 9-12) current cigar use from the North Dakota Youth Risk Behavior Survey (YRBS).

[8] Adult current use of electronic cigarettes (among those who have ever tried, also used every day or some days of past 30 days) from the North Dakota BRFSS. Youth (youth in grades 9-12 who used at least one day of past 30 days) from North Dakota Youth Tobacco Survey (YTS) and North Dakota Youth Risk Behavior Survey (YRBS).

[9] For adults, any current tobacco use (used at least one day of the past 30 days) includes cigarettes, smokeless tobacco, or electronic cigarettes while for youth (grades 9-12), any current tobacco use includes cigarettes, cigars, smokeless tobacco, or electronic cigarettes.

[10] Ever tried electronic cigarettes for total adult population from the North Dakota ATS and for the total High School (grades 9-12) population from the North Dakota YRBS.

[11] Of current cigarette smokers in grades 9-12, the proportion who report first cigarette use before age 13 (YRBS).

[12] Of current smokeless tobacco users in grades 9-12, proportion who reporting smokeless tobacco use before age 13

[13] Total number of people enrolled in NDQuits is for state fiscal year (July-June) and is obtained from NDQuits State Summary Reports.

[14] NDQuits quit rate via phone or web is obtained from annual NDQuits Evaluation Reports and calculated using North American Quitline Consortium (NAQC) guidelines. They are for state fiscal year (July-June) and participants are considered to have quit if, 7 months after program registration, they report not using cigarettes or other forms of tobacco in the past 30 days (i.e. Thirty-day Point Prevalence Abstinence).

[15] The source for this tobacco tax-related policy question is the North Dakota Adult Tobacco Survey (ATS).

[16] North Dakota estimate of smoking-attributable deaths: CDC, Best Practices for Comprehensive Tobacco Control Programs—2014. This estimate is the annual average from 2005-2009, is among adults aged 35 years and older, and does not include burn or secondhand smoke deaths.

[17] Estimated range of deaths due to secondhand smoke exposure reported by the Campaign for Tobacco Free Kids

[18] Smoking attributable medical expenditures reported by the Campaign for Tobacco-Free Kids and are among adults aged 18 years and over.

[19] Smoking attributable productivity costs reported by the Campaign for Tobacco-Free Kids (CTFK). They are the annual average productivity costs from 2000-2004 reported by they CDC's SAMMEC (Smoking-Attributable Morbidity, Mortality, and Economic Costs) website updated to 2009 dollars.

†Respondents to the NDQuits 7-Month Follow-Up Survey were more likely to exhibit characteristics that are associated with higher levels of quitting (i.e. be older at intake, have a higher education level, be insured, and to use their first cigarette later after waking). This means the quit rate could be biased upward since a greater proportion of these groups

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#8176

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March 9, 2021
2:30 pm CST
Senate Industry, Business, and Labor Committee for the 67th ND Legislative Assembly

Chairman Klein, and members of the Senate Industry, Business, and Labor Committee, hello, my name is Heather Austin, and I am the Executive Director for Tobacco Free North Dakota. The mission of Tobacco Free North Dakota is to improve and protect the public health of all North Dakotans by reducing the serious health and economic consequences of tobacco use, the state's number one cause of preventable disease and death. Thank you so much for your time this afternoon.

Today I am here to encourage a Do Not Pass on HB 1152, the bill allowing for the establishment of cigar bars in ND. By eroding our indoor smoke free air law, by making exceptions to allow even one type of product to be smoked or aerosolized indoors, we do a serious disservice to our citizens and to our state.

According to the Dept. of Health Tobacco Surveillance Data Table in 2017 for North Dakota, tobacco use cost our state $326 million in Smoking Attributable Medical Expenditures, and $232.6 million in Smoking Attributable Productivity Loss. That is over ½ a BILLION dollars annually in smoking related expenses to the state of North Dakota! Rolling back indoor smoke free air law protections will only exasperate this issue, as cigars are a public health risk and are a leading cause of several cancers.

By allowing cigar bars, we begin to renormalize smoking to our youth, undoing years of work by our public health experts across North Dakota. There is already a serious disconnect in youth views concerning vaping vs. smoking, with the former seeming to be safer in the eyes of our teens, even though evidence is showing that it clearly is not.

While cigarette consumption among youth decreased by nearly 40 percent from 2000 to 2015, youth cigar consumption increased by 92 percent. i. Cigar use among youth is now almost as common as cigarette smoking! We do not want to confuse the issue even further by making cigars seem safe enough to smoke indoors without serious health consequences for those exposed. There is no safe level of tobacco exposure. ii

We also know that ventilation systems simply do not work to eliminate all secondhand smoke. While they are sometimes promoted as a way to reduce exposure to secondhand smoke, ventilation cannot remove it all, and does not purify the air at rates fast enough to protect people from the harmful toxins. The Surgeon General has concluded that even taking the steps of separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate exposure of nonsmokers to secondhand smoke. This means who these proposed establishments share walls with could have dire consequences, especially in cases where they share walls with residences, or with businesses catering to youth. The only effective way to fully protect people from exposure to secondhand smoke is to completely eliminate smoking in indoor public spaces. iii. Everyone deserves clean air.

I would also like to point out that currently North Dakota has one of the best indoor smoke free air laws in the nation protecting our citizens. It has been referenced and recognized nationally. We need to be proud of that and we need to fully preserve it. We can also be proud of and honor the fact that 66.7% of our voters approved it in 2012 with no exemptions. iv. In the years since the law's passage, support has only grown, and our latest polling shows that 76.3% of North Dakota citizens support our Indoor Smoke Free Air Law.

Once one exception is made to our law, how soon will it be before another request appears in front of our Legislature? With electronic product use at FDA labeled epidemic levels for our youth, and with new products being introduced at a lightning pace, we cannot risk opening the door for further erosion of a proven health policy that creates a healthier state and that saves lives. Allowing an exemption also takes us back to a patchwork of protections enacted across the state, as some communities have very strong local ordinances, and some do not.

Finally, I think it bears noting that the COVID-19 global pandemic we have suffered this past year is a disease specifically targeting our lungs and causing severe pulmonary and cardiovascular distress for many of the people contracting it. Lung health is as vital now as it ever was before, and weakening our pulmonary systems, and promoting establishments that could do so specifically, should not be allowed.

This past year, TFND published a Resolution of Support for preserving our Indoor Smoke Free Air Law. The following organizations have signed it: Bismarck-Burleigh Break Free Youth Board, Carrington Youth Center, CHI Carrington, Cavalier County Memorial Hospital, Cavalier County Board of Health, Foster County Board of Health, Foster County Commission, Grand Forks Board of Health, Grand Forks Tobacco Free Coalition, Light of Christ Catholic Schools, McKenzie County Community Coalition, Mid Dakota Clinic, ND Public Health Association, ND Society for Respiratory Care, Pembina County Board of Health, Pembina County Commission, Pembina County Memorial Hospital Association, Southwestern District Health Unit, University

of Mary Health PRO, Upper Missouri District Health Unit, Walsh County Tobacco Free Coalition, and Williams County Community Coalition.

Again, thank you for this time in front of you, Chairman Klein, and the Committee. It is very appreciated. Please vote Do Not Pass on HB 1152.

May I take any questions?

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The Survey Says...

ND Citizens Strongly Support ND'S Indoor Smoke Free Air Law

Percentage of citizens that support the law

2013	2015	**2017**
74.92%	75.2%	**76.31%**

*Data taken from polls by Odney Advertising from 2013-2017

Tobacco Free North Dakota

Tobacco Free North Dakota

Adopted by the Tobacco Free North Dakota Board of Directors December 12, 2019.

Statement of Support for the North Dakota Smoke-Free Law

WHEREAS, tobacco use is the foremost preventable cause of premature death in the United States.[1] Tobacco is responsible for approximately 480,000 deaths a year and 20.8 million premature deaths in the United States over the past 50 years since the first Surgeon General's report on smoking in 1964[2];

WHEREAS, tobacco smoke contains more than 7,000 chemicals, including hundreds that are toxic and about 70 that can cause cancer [3]. Both the Public Health Service's National Toxicology Program and Environmental Protection Agency have classified secondhand smoke (SHS) as a known carcinogen, concluding that SHS is a health risk to nonsmokers[4];

WHEREAS, the Surgeon General concludes that SHS causes lung cancer, heart disease, as well as stroke in adults[2]. In addition, the following health effects are associated with SHS exposure: sudden infant death syndrome, low birth weight; middle ear problems, respiratory symptoms, and asthma in children[5];

WHEREAS, studies have shown that second hand aerosol from electronic nicotine delivery systems (ENDS) is not harmless. It can contain harmful and potentially harmful chemicals, including nicotine; ultrafine particles that can be inhaled deep into the lungs; flavoring such diacetyl, a chemical linked to a serious lung disease; volatile organic compounds such as benzene, which is found in car exhaust; and heavy metals, such as nickel, tin, and lead[6];

WHEREAS, secondhand smoke from marijuana has many of the same chemicals as smoke from tobacco, including those linked to lung cancer[7]. Exposure to fine particulate matter can exacerbate health problems, especially for people with respiratory conditions like asthma, bronchitis, or chronic obstructive pulmonary disease (COPD)[8];

WHEREAS, cigar smoke, like cigarette smoke, contains toxic and cancer-causing chemicals that are harmful to both smokers and nonsmokers. Cigar smoke is possibly more toxic than cigarette smoke as cigars have a higher level of cancer-causing substances, more tar, and a higher level of toxins[9]. The larger size of most cigars and longer smoking time result in higher exposure to many toxic substances including carbon monoxide, hydrocarbons, ammonia, cadmium, and other substances.

WHEREAS, the American Society for Heating, Refrigeration, and Air-Conditioning Engineers (ASHRAE), affirms that mechanical solutions like ventilation cannot control for the health hazards of SHS, the only means of effectively eliminating health risk associated with indoor secondhand smoke

exposure is to ban smoking activity[10];

WHEREAS, the Surgeon General concluded that there is no risk-free level of exposure to SHS; ventilation and other air cleaning technologies cannot completely control for exposure of nonsmokers to secondhand smoke; smoke-free workplace policies are the only effective way to eliminate SHS exposure in the workplace, and evidence from peer-reviewed studies shows that smoke-free policies and laws do not have an adverse economic impact on the hospitality industry;

WHEREAS, SHS exposure in bars and restaurants leads to 1420 new cases of asthma among nonsmoking servers each year[11];

WHEREAS, multiple studies have linked comprehensive smoke-free workplace and public places legislation to significant declines in hospital admissions for heart attacks in the general population;

WHEREAS, studies indicate that individuals living in communities with comprehensive smoke-free policies are 22% less likely to be hospitalized for COPD compared to their peers in communities with moderate-weak smoke-free laws or no law[12];

WHEREAS, the World Health Organization (WHO) recommends that ENDS not be used indoors, especially in smoke-free environments, in order to minimize the risk to bystanders of breathing in the aerosol emitted by the devices and to avoid undermining the enforcement of smoke-free laws[13];

WHEREAS, the annual economic impact of smoking in the U.S. is more than $300 billion in health care and lost worker productivity costs[11];

WHEREAS, in 2012 North Dakota enacted a comprehensive statewide law prohibiting smoking in enclosed public places and policies such as this have been shown to protect the public from exposure to secondhand smoke, and help smokers reduce the number of cigarettes consumed or quit entirely[14];

WHEREAS, this law is supported by over 80% of North Dakotans[15;]

THEREFORE, be it resolved, _____ believes that the current protections that this law provides the citizens of North Dakota enhance the health and wellbeing of the state and supports the preservation of this law.

_____	_____	_____
Name of Organization Representative	Signature of Organization Representative	Date

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Excluding Cigars from Tobacco Control Laws Puts Everyone at Risk

Cigars pose a real danger to the long-term health of all Americans – and to young people especially – yet government regulation of cigars lags behind that of cigarettes and e-cigarettes. In January 2020, the FDA prohibited the sale of most flavors in cartridge-based e-cigarettes.[1] Flavored cigarettes, except for menthol, have been largely illegal since 2009. However, similar regulations do not exist for flavored cigars, something that has helped the cigar industry stay attractive to younger customers. Similarly, cigars are not always taxed at the same rate as cigarettes. Excluding cigars from evidence-based tobacco control measures provides opportunity for the tobacco industry to take advantage of and aggressively market their deadly products to youth. In addition, some groups, such as Black middle and high school students, experience a disproportionate impact, exacerbating existing health disparities.[2]

What Defines A Cigar?

A cigar is usually defined, for tax purposes, as any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco. Cigars sold in the United States include large cigars, cigarillos, and little cigars. Large cigars usually contain at least a half an ounce of tobacco, while cigarillos tend to be shorter and contain 3 grams or less of tobacco.[1] Some cigarillos and little cigars are similar in size and shape to cigarettes. Unsurprisingly, these cigarette-like cigars are appealing to youth.

CURRENT USE

An estimated 770,000 U.S. high school students (5.0 percent) and 180,000 middle schoolers (1.5 percent) were current cigar users in 2020, making cigars the second most popular tobacco product among youth.[3] In addition, 4.5 percent of U.S. adults reported current cigar use in 2019, including 7.7 percent of young adults between the ages of 18 and 25.[4]

DISPARITIES IN YOUTH USE

According to CDC data, Black high school and middle school students are more likely to use cigars than their peers. In 2020, 6.5 percent of surveyed Black middle and high school students reported using cigars in the past 30 days, compared to 3.5 percent among all students.[5] Cigars are currently the most popular tobacco product among Black youth, outpacing both cigarettes and e-cigarettes. Male students are also more likely than female students to be current cigar users (3.7 percent vs 3.4 percent). Clearly, the issue of youth cigar use is also an issue of health equity.

FLAVORED CIGARS

Cigars, cigarillos, and little cigars are all sold in many flavors that are appealing to young people, such as banana, mango, chocolate, and grape. These flavored products are commonly sold by cigarette retailers, such as convenience stores, but, unlike cigarettes, are not required to be placed behind the countertop.[6,7] This practice may make flavored cigars and cigarillos more appealing and accessible to young people.

Flavored cigars are very popular among children and young adults. A 2015 study found that 74 percent of youth who used cigars reported flavoring as a primary reason for using them.[8,9] In 2019, 41.9 percent of high school and middle school current cigar users reported using flavored cigars in the past 30 days.[10]

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Importantly, flavored cigars can also serve as a gateway for new tobacco users. A 2019 longitudinal study found that, among youth aged 12-17 who began using cigars during the study period, 45.2 percent reported that their first product was flavored.[11] This same study found that young adults aged 18-24 who start with flavored cigars are more likely to become regular users compared to those who start with unflavored cigars.

HEALTH EFFECTS

Regular cigar smoking increases the risk of cancers of the lung, oral cavity, larynx, and esophagus.[12] In fact, cigar smokers are four to ten times more likely to die from laryngeal, oral or esophageal cancers than non-smokers.[13] Heavy cigar smoking also increases the risk of developing lung diseases, such as emphysema and chronic bronchitis.[14] Cigars also produce secondhand smoke that is dangerous for non-smokers.

All tobacco products, including cigars, contain nicotine, which may induce dependence and harm health.[15] And unfortunately, young people who use tobacco products are more likely to become addicted than adults.[16]

ACS CAN'S POSITION

Regulation of cigars is part of ACS CAN's comprehensive approach to reducing tobacco use and exposure to secondhand smoke in the United States. Excluding cigars from comprehensive tobacco control laws provides the tobacco industry with an opening to target youth, who may be especially drawn to flavored products.. ACS CAN makes the following policy recommendations with respect to cigars:

- **Prohibit flavored cigars:** Congress or the FDA should prohibit the use of characterizing flavors, including menthol, in all tobacco products. Many states and localities are moving forward to end the sale of menthol cigarettes, cigars and all other flavored tobacco products and winning legal challenges to its laws. The Family Smoking Prevention and Tobacco Control Act does not permit a state or locality from requiring a product standard, such as the removal of a flavor, but the law does preserve the ability for states and localities to regulate the sales of tobacco products. States and localities should pursue policy options including ending the sale of all flavored tobacco products, including cigars and menthol cigarettes, while taking into consideration what is permitted in a specific jurisdiction.

- **Tax cigars at the same rate as cigarettes:** Like all other tobacco products, cigars should be subject to taxation as well as manufacturing and marketing rules to reduce the deadly and costly burden of tobacco use. All cigars, regardless of size, must be taxed at rates equivalent to cigarettes with no cap on tax rates.

- **Include cigars in smoke-free laws:** Secondhand smoke from cigars poses significant health risks to smokers and those around them and should be included as part of any smoke-free law. This includes prohibiting cigar use in cigar and tobacco shops, bars identified as "cigar bars," gaming facilities and wherever else smoking is prohibited.

- **Regulate cigars by the FDA**: All types of cigars, regardless of their weight, should be regulated by the FDA and subject to the same requirements as cigarettes, smokeless tobacco and other tobacco products. In addition, FDA should use its enforcement authority against manufacturers selling cigarettes as little cigars.

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Clearing the Air:
The Facts About Ventilation

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The only effective way to fully protect nonsmokers from exposure to secondhand smoke is to eliminate smoking in indoor public spaces.

Secondhand smoke is a serious health hazard. Ventilation technologies do not sufficiently protect individuals from the harmful effects of breathing in secondhand smoke. Reports from two different Surgeon Generals have found that there is no safe level of exposure to secondhand smoke.[i, ii] While ventilation or air purification systems are sometimes promoted as a way to reduce exposure to secondhand smoke, ventilation cannot remove all secondhand smoke and does not purify the air at rates fast enough to protect people from harmful toxins. The Surgeon General has concluded that even separating smokers from nonsmokers, cleaning the air, and ventilating buildings cannot eliminate exposure of nonsmokers to secondhand smoke. The only effective way to fully protect nonsmokers from exposure to secondhand smoke is to completely eliminate smoking in indoor public spaces.[iii]

The Facts on Secondhand Smoke and Air Quality

Secondhand smoke is a major source of particulate matter, a type of air pollution. Conventional air cleaning systems can remove large particles, but not the smaller particles or gases found in secondhand smoke.[iv] Particulate matter, of the size found in cigarette smoke, is easily and deeply inhaled into the lungs and can lead to disease and death. Exposure to secondhand tobacco smoke has been causally linked to cancer, respiratory and cardiovascular diseases, and numerous other adverse health effects.[v]

Numerous studies over the past two decades have repeatedly shown that secondhand smoke is a cause of pollution and smoke-free laws are the only effective way to reduce exposure to secondhand smoke. For example:

- The pollution generated from three lit cigarettes in a room of 197 cubic feet was higher than the pollution generated from a diesel engine in a closed private garage.[vi]
- Between 90 and 95 percent of airborne pollution in Delaware hospitality venues was caused by smoking before the state's smoking ban went into effect.[vii] Levels of cancer-causing pollutants were found to be 4 times greater than National Ambient Air Quality Standards (NAAQS) outdoor requirements in six Delaware bars, one casino, and one pool hall before implementation of a statewide smoking ban.[viii]
- Studies have found that in restaurants and bars where smoking was previously allowed, particulate matter decreased 80-90 percent within months of a smoke-free policy taking effect.[ix]

The American Society of Heating, Refrigeration, and Air-Conditioning Engineers: [xii]

- Concludes that the only way to eliminate the health risks of secondhand smoke exposure is to prohibit the smoking behavior
- Furthermore, no engineering approaches, including ventilation and air cleaning technologies, can eliminate the health risk.
- Includes marijuana smoke in the definition of environmental tobacco smoke (also called secondhand smoke).

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What is Ventilation?

Ventilation uses controlled airflow to curb airborne contaminants.[x] Despite the fact that ventilation systems cannot remove carcinogens found in secondhand smoke from a workplace or public place, the tobacco industry and their allies have promoted ventilation as a method to accommodate both smokers and non-smokers. There are two types of ventilation that are commonly used in commercial and industrial buildings.[xi]

- **Local exhaust ventilation** attempts to trap pollutants at or near their source. It is geared toward environments with high pollution levels and requires low levels of air circulation. The theory is that pollutants are trapped at their source and are not diffused throughout the air.[xii] Ventilated ashtrays are one example of local exhaust technology. Once a cigarette is placed into an ashtray, a filter would isolate any pollutants emitted from the burning tip. Canopy hoods are another example and work by filtering out any smoke that is exhaled directly above restaurant and gaming tables. In practice, local exhaust ventilation is not fully effective and requires substantial maintenance, making the technology ineffective, inefficient and costly for businesses to operate.
- **Dilution ventilation,** also known as general ventilation, involves saturating a room with clean, unpolluted air in an attempt to dilute airborne contaminants—in this case tobacco smoke—to safe and comfortable levels. The process requires high levels of air circulation and works best in environments with low pollution levels spread over a large area. However, exposure to secondhand smoke, at any level, is neither safe nor acceptable; the health consequences are immediate and can be life-threatening. Because dilution ventilation allows tobacco smoke to travel throughout a room, it offers little protection from secondhand smoke exposure and can even distribute secondhand smoke throughout a building.[xiii, xiv] In addition to being ineffective, it may be costly for businesses to install.

Ventilation is Ineffective

The U.S. Surgeon General has concluded that separating smokers from nonsmokers, air cleaning technologies, and ventilating buildings cannot eliminate secondhand smoke exposure.[xv] Research has shown that "tornado-like levels of ventilation" would be needed in restaurants, bars, and gaming establishments to protect hospitality workers from secondhand smoke.[xvi] For example:

- Placing hoods over gaming, restaurant and bar tables to filter secondhand smoke would require "impracticably high" minimum airflows in excess of 300 cubic feet per minute per hood (cfm/hood).[xvii]
- Ventilation was unable to control pollution in seven hospitality venues that were surveyed in Boston, Massachusetts, prior to the city's smoke-free ordinance. Indoor air pollution levels were four times higher than NAAQS outdoor requirements.[xviii]
  A study of 36 tribal casinos found that air pollution was more than four times as high in the non-smoking gaming areas of casinos that allowed smoking than smoke-free casinos when there was no separation from smoking gaming areas. Even when there was complete separation between smoke-free and non-smoking gaming areas, air pollution was an average of 40 percent greater in the non-smoking areas of casinos that allowed smoking than completely smoke-free casinos.[xix]

A study comparing indoor air quality at U.S. airports with and without smoking lounges found significantly more secondhand smoke particles in airports with smoking lounges, even in non-smoking parts of the airport. In airports with smoking lounges, the amount of secondhand smoke in the areas adjacent to the smoking lounges – where smoking was not allowed – was four times higher than the average amount of secondhand smoke in the non-smoking parts of airports that allowed smoking and five times higher than the average amount of secondhand smoke in completely smoke-free airports.[xx] Despite ventilation, secondhand smoke from the airport smoking lounges penetrated the non-smoking parts of the airports, exposed non-smoking employees and travelers to secondhand smoke.

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Manufacturers and sellers of air filtration technologies admit that their products do not protect consumers from the health risks imposed by secondhand smoke.[xxi] The American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) re-affirmed in 2016, that the only means of effectively eliminating the health risk associated with indoor exposure is to prohibit smoking activity.[xxii] According to ASHRAE:

- No other engineering approaches, including current and advanced dilution ventilation or air cleaning technologies, have been demonstrated or should be relied upon to control health risks from secondhand smoke exposure in spaces where smoking occurs.[xxiii]
- While some engineering measures may reduce secondhand smoke exposure and some of the corresponding odor and irritation, smoke-free air cannot be accomplished with any engineering or other approaches besides prohibiting smoking.[xxiv]

Even the tobacco industry acknowledges that ventilation and air filtration technologies are ineffective at removing secondhand smoke.

- British American Tobacco (BAT) acknowledged that its Colt air filtration unit was only 34 percent efficient at removing particulate matter from tobacco smoke. The unit failed to eliminate carbon monoxide and other volatile organic compounds found in cigarette smoke.[xxv] The Colt unit only reduced "haze, tobacco-smoke aroma and total perceived smoke," thus making the air more comfortable to breath, but not less harmful.[xxvi]
- Phillip Morris USA states that "the public should be guided by the conclusions of public health officials regarding the health effects of secondhand smoke."[xxvii] The company further acknowledges that "the conclusions of public health officials concerning environmental tobacco smoke are sufficient to warrant measures that regulate cigarette smoking in public places." Even the tobacco company itself does not promote ventilation as an alternative to smoke-free laws.

ACS CAN on Ventilation

ACS CAN supports local, state, and federal initiatives to eliminate public exposure to secondhand smoke, including 100 percent smoke-free laws, prohibiting smoking in all workplaces, including restaurants, bars and casinos, which are key to protect nonsmokers, children and workers from the deadly effects of secondhand smoke.

ACS CAN does not support smoke-free laws that allow for separating smokers from nonsmokers or ventilating buildings as alternatives to requiring a 100 percent smoke-free environment, as the evidence is overwhelming that these measures cannot eliminate exposure of nonsmokers to secondhand smoke.

ACS CAN's work to create 100 percent smoke-free environments is part of a comprehensive approach to addressing tobacco use and exposure to secondhand smoke in the United States.

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Testimony in Opposition of HB 1152

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Chairman Senator Klein, and members of the Industry, Business, and Labor Committee. My name is Jessica Arndt. I currently serve as the President of the Bismarck Tobacco Free Coalition. I am also a respiratory therapist and educator. I have worked in respiratory care for nearly 13 years. I and am here to provide testimony in opposition of HB 1152.

The Bismarck Tobacco Free Coalition has always led the way in advocating for smoke-free air protection for all workers. In 2005, when the City of Bismarck passed its first smoke-free ordinance, it only applied to restaurants and all indoor workplaces except bars. Immediately after the adoption of this ordinance, we received phone calls from bartenders, wait staff, gamming employees and musicians wanting to know why they were excluded? Are their lives less important? Didn't they deserve to have the same, safe, smoke-free working environment? Our coalition again educated others about the need to protect all workers, and eventually the citizens of the City of Bismarck voted in a majority to support a smoke-free ordinance for all workplaces, including bars and private clubs. HB 1152 would create an exemption to our ND Smoke Free Law that caters to only 4% of North Dakota's population, as just 4% of the population uses cigars. Plus, this exemption would jeopardize the lives of employees as they will again be exposed to the detrimental effects of secondhand tobacco smoke from cigars.

On another note, I previously mentioned that I am an educator, I get to help students become respiratory therapists. One of the courses I teach is a human disease course though which students learn about a many pulmonary disease processes. I find myself repeating, over and over again, that exposure to tobacco smoke is a risk factor. In fact, according to the Centers for Disease Control and Prevention, exposure to tobacco smoke is a known risk factor for at least four of the top ten causes of death in the United Sates and the State of North Dakota – heart disease, cancer, chronic lower respiratory disease, and stroke. As you can see, HB 1152 would not offer North Dakotans any health-related benefits, rather it would increase their risk of developing these diseases. Furthermore, if you think about the financial burden caused by the aforementioned disease processes, the medical costs to our citizens, and the lost days of work and productivity for our community, you will see that it is prudent to uphold our comprehensive smoke free indoor air law.

While I applaud the entrepreneurial spirit of HB 1152, putting business and financial profit above the health of the citizens of North Dakota needs to be examined carefully. The Bismarck Tobacco Free Coalition urges you to vote "NO" on HB 1152 because it will unravel North Dakota's Comprehensive Indoor Smoke Free Air Law, taking a step backwards and putting our citizens at risk of secondhand tobacco smoke once again. To bend this law, even just a little, even for just one cigar bar, would be a disservice to the people you represent, the people who voted in favor of this law and who still want to uphold this law.

Thank you for your time and consideration.

References

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2. CDC. Health Effects of Second Hand Smoke: https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/health_effects/index.htm
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#7977

TESTIMONY IN OPPOSITION OF HB 1152

Joelean Lowman
4707 Harbor Trail SE
Mandan, ND 58554
701-220-2482

Chairman Klein and members of the Senate Industry, Business and Labor, Committee. My name is Joelean Lowman. I teach the Medical related Careers class at Legacy High School and am an Advisor for HOSA- Future Health Professionals. I have lived in Bismarck/Mandan for 25 years. I am here today to testify in opposition to House Bill 1152.

As I think about a time when ND was not Smoke Free it takes be back to 1996 when I was pregnant with my first child. At that time, I was a waitress at a restaurant that had a smoking and a nonsmoking section. I was currently in college to become and occupational therapist and knew the dangers of secondhand smoke to the child I was carrying. As a 23-year-old it was difficult for me to ask my supervisor not to be scheduled in the smoking section. Even when I did ask, the request was not always granted.

I know some people say work somewhere else. That is not always an option. When the choice becomes to protect yourself or pay the rent, the pay the rent may come out on top when taking care of yourself should. The Smoke Free laws in our state help to protect many individuals that are not capable of standing up for themselves. I can relate, because I remember being in that situation many years ago.

I think that there are many people that would not have a choice about being exposed. There are some that have less control over where they work or what businesses are next door. I also worry about the dangers of second hand or third hand smoke and how that will affect children of those that work in facilities where smoking is allowed.

Recently during a trip to Anaheim, CA with a group of students for the HOSA - Future Health Professionals International Leadership Conference we made a stop at Downtown Disney. There was a cigar bar there and right next to it was a sports memorabilia store. I had some students in the sports memorabilia store. In going in to visit with them I was shocked to realize that I could not even be in that store due to the smell of cigar smoke from the store next door. If House Bill 1152 were to be passed in North Dakota, I worry about the impact it may have on businesses that may be adjoining the cigar bar.

We have taken so many steps forward in our state ensuring that our residents can breathe clean air when in their communities and buildings, it would be so sad to see us take a huge step back. Please oppose HB 1152 so North Dakota can continue to protect the right of all our citizens to breathe clear air and provide a work environment that is safe. Thank you for your time. This concludes my testimony.

Good Afternoon Chairman Klein and members of the Senate Industry, Business, and Labor Committee,

My name is Madeline Erickson. I am a junior at St. Mary's Central High School in Bismarck and a National Youth Ambassador for the Campaign for Tobacco Free Kids (CTFK). For more than 20 years the CTFK has fought to protect children and save lives from the number one cause of preventable death: tobacco use. I stand before you today in opposition of House Bill 1152. Many arguments have already been shared surrounding this bill, but I want to voice the concerns of North Dakota's youth, the people who will be most affected by this bill in the future. I am here today to present these concerns and urge you to think not of what this bill can do for you in the present, but how it will affect the youth in the future.

During previous discussion surrounding this bill it was mentioned that cigar bars can be a place for leaders to meet and make important decisions. These cigar bars would be considered a place of prestige and refinement. But, why do we have to make cigar bars "the room where it happens?" As someone who intends to be a future leader and hopes to be part of these decision making processes, why should I and countless others have to sacrifice our health just to be an influential North Dakotan? The answer is we should not. We should not have to risk our health because of the whims of a few in the present. We should not have to sacrifice our health because of a decision we had no say in, a decision we won't get to make for ourselves. A decision from which we will suffer the consequences. The choice this committee and this Senate makes will not only impact today's leaders, but tomorrow's leaders as well and arguably the latter to a greater degree. Please remember to consider my generation and all those dreaming about being leaders, as I am right now.

The second concern I would like to raise is for the future workers of the proposed cigar bars. Many of these employees will be young adults, just looking for a job. As someone who is nearing college myself and has friends already in college, I know that when most students are offered a well paying job or any job at all, they don't necessarily consider the risks. They are focused on paying rent, tuition, and even providing for a family. Just because they sign a piece of paper or verbally consent that they understand the risks doesn't mean that they have necessarily considered those long-term risks. The employees of these proposed cigar bars will not be the only casualties. Please also consider all those working in the same building or adjacent buildings. This bill would expose workers and residents who have no connection to the cigar bars whatsoever except proximity and yet will have to suffer the consequences of second hand smoke. I ask you today to remember the workers when making your decisions, especially those workers that have their whole life before them.

My third and final concern this afternoon is the economic ramifications of this bill. Cigar bars will provide North Dakota with economic benefits in the present and utility to their consumers. However, I would like to emphasize that these are short-term benefits and the economic effects on my generation will far outweigh these benefits. I have already discussed the health effects on all employees related and unrelated to cigar bars. These effects would not manifest until much further down the road and could be financially disastrous. Ask yourselves

who will shoulder the burden of taxes that will come with these health effects? By the time they appear, it will be my generation. We will pay for a decision that we did not make and in which we had no voice. We will suffer the brunt of the economic consequences.

This bill to create an exception in North Dakota's smoke free law will have lasting repercussions on my generation. Is it truly fair to leave these burdens on us? I ask you today to consider the health and safety of my peers and I, of your children and grandchildren and vote in opposition of this bill.

Thank you for your time. I am now open for questions.

Testimony in Opposition of HB 1152

Senate Industry, Business, and Labor Committee

Chairman Klein and Members of the Senate Industry, Business, and Labor Committee, my name is Mike Krumwiede appearing on behalf of the American Heart Association in opposition of House Bill 1152. In November 2012, North Dakota voters opted to become smoke-free, leading the nation with a strong comprehensive model. Voters in every county in the state favored the law, which advances public health by protecting more workers, residents, and visitors from secondhand smoke exposure in public places and places of employment.

Secondhand smoke (from cigarettes and cigars) has been proven to cause numerous health problems, including heart disease, emphysema, stroke, sudden infant death syndrome and cancer. Secondhand smoke contains toxic chemicals like formaldehyde, cyanide, carbon monoxide, ammonia and nicotine. Exposure to secondhand smoke causes preventable deaths from lung cancer and cardiac-related illnesses. The Centers for Disease Control and Prevention (CDC) makes clear that there is no safe level of exposure to secondhand smoke.

Smoke-free policies help prevent youth tobacco use. A major conclusion from U.S. Surgeon General's Report ("Preventing Tobacco Use Among Youth and Young Adults") states that smoke-free policies, combined with a comprehensive prevention approach, are effective in preventing youth and young adults from starting to smoke.

HB 1152, which would allow smoking in bars that sell cigars and so-called cigar lounges would weaken existing protections and pollute the indoor air in North Dakota. In addition, AHA is concerned, it could also create an opening for more exemptions allowing cigar lounges, smoking lounges, vaping bars, hookah bars, and pipe tobacco rooms as possible options.

The original law our voters approved nearly a decade ago clearly states the importance of protecting public health and the need for individuals to breathe smoke-free air. This extends to all workers including those who work in bars and cigar lounges. For these reasons we urge a DO NOT PASS recommendation on HB 1152. Thank you for your time and consideration.

TESTIMONY IN OPPOSITION OF HB 1152

Susan Kahler
SAP Coordinator
Bismarck Burleigh Public Health
500 East Front Ave
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701-355-1597

Good afternoon, Chairman Klein and members of the Senate House Industry, Business and Labor Committee. My name is Susan Kahler. I am a Substance Abuse Prevention Coordinator at Bismarck-Burleigh Public Health. I am here on the behalf of the City of Bismarck to oppose HB 1152.

This bill would create a public health issue with exposure to secondhand smoke. I receive many phones and comments from citizens of Bismarck about how much they appreciate the Smoke Free Ordinance and State Law. As some you may recall the on April 11th, 2011, Bismarck voters laid the issue to rest, deciding for all that everyone, including bar workers and patrons, should be able to breathe clean indoor air and same thing in 2012 statewide.

The definition for smoking in the ND Smoke Free Law and local ordinances includes cigars. Cigars are also defined as tobacco in the ND Century Code as a tobacco product and are very similar to cigarettes; except they are wrapped in tobacco leaf. Cigar's produce secondhand smoke that contains the same toxic chemicals that secondhand cigarette smoke does. There is an abundance of scientific research on secondhand smoke and how it can cause or contribute to lung cancer and heart disease. Cigar smokers have the same risks to nicotine dependence as other tobacco product users.

Separating smokers from nonsmokers, cleaning the air, and ventilating buildings: none of these measures fully protect people from secondhand smoke. The only effective preventive measure is to eliminate smoking in indoor spaces completely. HB 1152 would allow individuals to smoke cigars and expose others to secondhand smoke plus be very difficult to enforce what tobacco products they are smoking inside this bar. Who will monitor this?

The ND Smoke Free Law was passed in 2012 to protect everyone from secondhand smoke exposure and provide equality for all. I, and on the behalf of the City of Bismarck Commission, oppose HB 1152. Thank you. This concludes my testimony. I will be happy to answer any questions you may have.

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#7526

March 9, 2021, 2:30 pm CST
Senate Industry, Business and Labor Committee for the 67th ND Legislative Assembly

Chairman Klein and members of the Senate Industry, Business and Labor Committee, thank you for your time today. My name is Melissa Markegard. I am the Tobacco Prevention Coordinator at Fargo Cass Public Health. I am writing to provide education regarding HB1152.

Fargo Cass Public Health has provided tobacco prevention and control programs and resources for the residents of Fargo and Cass County since 2003. Our statewide Smoke Free Indoor Air Law passed and went into effect December 2012. The passage of this law was incredibly important to the citizens of North Dakota. They overwhelmingly voted in favor of it.

Fargo Cass Public Health's opposition to this bill is focused on protecting the health of all North Dakota citizens by preventing exposure to secondhand smoke. This bill includes a requirement for a special ventilation system; however, there is no filtration and ventilation systems proven to effectively remove secondhand smoke from enclosed areas. I must reiterate that the goal of public health, and the goal of the state smoke-free law, is to protect patrons and employees from exposure to secondhand smoke.

This bill is also nearly an exact copy of the bill presented during last legislative session – a bill that was voted down. Very few changes were made – no mechanisms for enforcement and no penalties are included – making this a poorly written piece of policy.

The ONLY way to effectively protect against this harm is to maintain the state smoke-free law, keeping current smoke-free environments completely smoke-free. North Dakota's current smoke-free law is one of the strongest in the nation as it includes electronic nicotine products and includes very few exemptions. By allowing additional exemptions to the Smoke Free Indoor Air Law, we weaken the law and knowingly put the health of our citizens in jeopardy.

Additionally, the COVID-19 pandemic has placed increased attention on lung health. Since smoking of any kind, including cigars, increases the risk of the most severe impacts of COVID-19, preventing and reducing all tobacco use is more critical than ever.

I implore you to vote to maintain all current provisions of the state-wide smoke-free law. Keeping this law fully intact would ensure continued protection from the dangers of second-hand smoke in public places in our great state. Please feel free to reach out if you have any additional questions related to smoke-free policy.

Chairman and Committee members, thank you for the opportunity to provide this testimony.

Melissa Markegard

Melissa Markegard
Tobacco Prevention Coordinator, Fargo Cass Public Health
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#7649

Testimony Opposition of HB 1152

3/6/2021

Dear Chairman Senator Klein and members of the Senate Industry, Business and Labor Committee. My name is Marie Jensen. I am a registered nurse and tobacco treatment specialist. I am also a board member of the Bismarck Tobacco Free Coalition. Unfortunately, I am unable to join you today. This is my written testimony in opposition of HB 1152.

I strongly oppose this bill because it is important for me to protect the North Dakota Smoke Free Law as it is currently written because all North Dakotans deserve to live and work in a smoke-free environment.

If Cigar Bars and Cigar Lounges are excluded from the Smoke Free Law and allow indoor smoking of their products sold, every patron and employee of that establishment will be exposed to the harmful, lethal, effects of second- and third-hand smoke. Who will ensure that ONLY the purchased cigars are being smoked in the establishment? There is room for DANGEROUS manipulation of this law as it is NOT clearly written. There is potential for any adjacent property to also suffer the effects of second- and third-hand smoke because we know that heating and ventilation systems are not 100% efficient at removing smoke from the air. The health risks associated with cigar smoking are not questionable or defensible.

If the Smoke Free Law is changed as proposed, it will send a clear message to adolescents and adults that our North Dakota leaders support the use of tobacco and ignore the harmful effects of second- and third-hand smoke. As a nurse and TTS, I assist individuals with quitting tobacco products. The ND Smoke Free Law provides a safe environment that encourages these individuals to be smoke-free and not exposed to triggers such as the sight of another smoking and the odor of second-hand smoke. The health consequences from any tobacco use are devastating.

I urge you to oppose HB 1152 because our current Smoke Free Law is one of the biggest public health accomplishments in North Dakota. ND has been recognized in the 2016 Surgeon General Report as a model law. We are proud of the Smoke Free Law as it is written. This law is the vaccine against second-hand smoke exposure and creates equality for everyone to breathe clean air. As a nurse and TTS, I am passionate about preserving and upholding our Smoke Free Law to keep our ND citizens and my patients healthy.

I ask the Senate Industry, Business and Labor Committee to vote “NO” on HB 1152. Thank you for your thoughtful consideration. Please contact me if you have any questions.

Very Respectfully,
Marie Jensen, BSN, RN, CLC, TTS
6500 Omar St Bismarck, ND 58504
701-471-9729

#7657

North Dakota House Bill 1152 Related to Exempting Cigar Bars from ND Smoke-Free Law

Senate Industry, Business, and Labor Committee for the 67th Legislative Assembly

March 9, 2021 Hearing

Chairman Klein and members of the Senate Industry, Business, and Labor Committee. My name is Kelly Buettner-Schmidt. I am a resident of Fargo, ND, District 41. Although I am not speaking on behalf of North Dakota State University (NDSU), I am a professor of nursing at NDSU and I am an American Cancer Society Cancer Action Network (ACS CAN) volunteer.

I am submitting a letter to the editor that I wrote and that was published in the Fargo Forum both online on 2/3/2021 and in print on 2/5/2021. It is attached below and available at https://tinyurl.com/btfyb3vv

Respectfully submitted,

Kelly Buettner-Schmidt, PhD, RN, FAAN

Fargo, ND 58104

45°

Vaccine Tracker

INFORUM Powered by The Forum and WDAY

E-Paper

Account

Letter: Urge legislators to uphold smoke-free workplace laws in North Dakota

I am very concerned to learn that the ND Legislature is considering House Bill 1152 to exempt cigar lounges and bars that sell cigars from our statewide smoke-free law.

Written By: Kelly Buettner-Schmidt | 10:00 am, Feb. 3, 2021

Tobacco is the leading cause of preventable death and disability in this country. Additionally, smoking may increase a person's risk for serious complications from COVID-19. There is no safe level of exposure to secondhand smoke. In 2012, North Dakotans voted overwhelmingly in support of a statewide smoke-free workplace law. This was after multiple local ND communities pass laws on the local level requiring smoke-free workplaces.

That is why I am very concerned to learn that the ND Legislature is considering House Bill 1152 to exempt cigar lounges and bars that sell cigars from our statewide smoke-free law. This would reverse important public health gains in our communities and open the door for additional exemptions. And it is unethical for employees to have to risk their health to earn a paycheck.

In published longitudinal studies of the impact of ND's law (https://doi.org/10.1097/NNR.0000000000000286), my co-authors and I found immediate, substantial and sustained declines in secondhand smoke and elimination of disparities in secondhand smoke exposure in rural communities. This led to a just distribution of smoke-free laws statewide and increased protection of populations, especially in rural areas, from secondhand smoke.

As a researcher and professor of nursing at North Dakota State University and as an American Cancer Society Cancer Action Network (ACS CAN) volunteer, I urge the Industry, Business and Labor Committee of the House of Representatives to consider the health of North Dakotans and vote against weakening our smoke-free law. Please contact your legislators and tell them to do the same.

Kelly Buettner-Schmidt is a professor of nursing at North Dakota State University and a volunteer with the American Cancer Society Cancer Action Network. Views are her own.

This column does not necessarily reflect the opinion of The Forum's editorial board nor Forum ownership.

TESTIMONY IN OPPOSITION OF HB 1152

Sommer Frohlich
3724 Renee Dr. Bismarck ND, 58503
701-934-0540

Chairman Klein and members of the Senate Industry, Business and Labor, Committee. My name is Sommer Frohlich. I am a junior in college through Minot State at Bismarck State College and was born and raised here in Bismarck. I am here today to testify in opposition to House Bill 1152.

I have asthma and I have personally made the decision to not use tobacco products so I can take care of my body. The current North Dakota Smoke Free law makes it possible for me to go out with friends, to work, and to the mall while still being able to breath fresh air. I love that I can go out in public without having to worry about my asthma acting up from breathing in secondhand smoke.

I am really concerned about allowing smoking cigars indoors. Not only would it limit me to where I could go and enjoy time with friends, but it also exposes workers, and customers. The person who chooses to smoke is not the only one being affected. I am old enough to remember growing up when there were sections in restaurants that were for smoking or nonsmoking. As a child I dreaded going out to eat because the smoke would make me feel sick.

Growing up I have been able to travel to other states in the U.S. Some of the places I visited did not have smoking restrictions. People could smoke in restaurants and our hotel lobby. Being in these states made me appreciate my home state of ND so much more. In the summer of 2019, I also had the opportunity to travel to a country in the Middle East. When we landed in the airport, I could not believe that people could smoke in the terminal and lounges. This was very eye opening to me about how good we have it in ND. Because of my asthma, it was very hard for me to sit in the airport for a layover and constantly breath in the smoky air. In ND I am so grateful that I can be guaranteed safe air to without limitations. I love that we can take care of our community and make public places safe for everyone.

I recognize just how deadly all tobacco products are including cigars. If our smoke free law were to exempt cigars, we would be exposing people who choose not to use these products to secondhand smoke. I also have concerns that if restrictions are loosened, it encourages others to try tobacco products. Especially young adults, like me who are in college, by creating a social norm.

I am a firm believer in North Dakotans looking out for one another, and our current smoke free law does just that. By having a strong statewide smoke free law, we are watching out for one another and protecting youth. Please oppose HB 1152 because why change something that North Dakota is known for? We must continue to care for one another. Thank you for your time. This concludes my testimony.

#7822

TESTIMONY OPPOSITION OF HB 1152

Katarina Zimmerman
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Bismarck, ND 58504
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Chairman Klein, and members of the Senate Industry, Business and Labor Committee. My name is Katarina Zimmerman, I am a College intern at the Bismarck Public Health Substance Abuse Prevention program. I am here to provide testimony and oppose HB 1152.

While visiting Las Vegas four years ago, they still allowed people to smoke within the buildings. There was a lot of smoking. I get sick when I smell smoke. I get headaches, sometimes I will even get dizzy and have an upset stomach. Even though in Las Vegas the area was huge, second hand smoke still cluing's to everything. You can never get rid of smoke 100% even if you have the "proper" ventilations or by having a large space. Smoke will follow you. I love that ND has a smoke free law because it protects my family and I from secondhand smoke and illness caused by it. According to the American Lung Association: Smoking is the No. 1 cause of lung cancer. It causes about 90% of lung cancer cases.[1] I am concerned about health problems caused by second hand smoke, I want to live a long healthy life and especially since I have a younger child. What if the cigar bar was located in the strip mall, next to Dairy Queen, my son and myself would be exposed to secondhand smoke. I don't want him ever being subject to the possibility of inhaling second hand smoke. Second hand smoke carries with that person, on their clothes and hands. I wouldn't want to smell smoke while eating or anywhere for that matter, why should we allow others or youth experience second hand smoke when there are clearly health related problems to it.

In North Dakota, kids under 18 who become new daily smokers each year is 200. That is a lot of children becoming smokers. As a mother of a 6-year-old, I ask the Senate

Industry, Business and Labor Committee to vote no on HB 1152. We have made great strides in our community with reducing tobacco use rates and protecting individuals from secondhand smoke. Let's continue with our great work and not go backwards. Thank you. This concludes my Testimony.

Source

1. https://www.breathend.com/news/avoidsmoking/

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North Dakota House Bill 1152
Senate Industry, Business & Labor Committee
Do Not Pass Testimony
March 8, 2021

Dear Chair Klein, Vice-Chair Larsen and members of the Committee,

My name is Sara Mannetter and I work for the nonprofit, non-partisan advocacy affiliate of the American Cancer Society. The American Cancer Society Cancer Action Network (ACS CAN) advocates for public policies that reduce death and suffering from cancer which include policies targeted at reducing tobacco use.

HB 1152, a bill that would create exemptions to North Dakota's Indoor Smoke Free Air Law, allowing for cigar smoking in bars and lounges is before you. This bill is essentially the same bill that was heard last regular session and defeated by a large margin.

ACS CAN opposes HB 1152 and I ask you for a Do Not Pass vote out of committee.

Voters overwhelming voted for and have enjoyed the state smoke-free law in the land with no exceptions for the past 10 years.

If passed, workers and patrons will be exposed to secondhand smoke which goes against the intent of the law and could encourage more erosions in the future.

Ventilation systems cannot remove carcinogens found in secondhand smoke from a workplace or public place. Asking business owners to install an expensive system is burdensome and does nothing to protect the public's health. The only effective way to fully protect workers and patrons from exposure to secondhand smoke is to eliminate smoking.

A strong law covers all people including workers. Why in the world would we want to go backward? Everyone has the right to breathe smoke-free air and that includes those in hospitality venues, work environments, and other public places. A strong law prohibits all smoking including cigar use in all workplaces whether they sell cigars or not.

HB 1152 is specifically problematic for the following reasons:

- Exempts not only so-called "cigar lounges" but also bars where the sale of cigars makes up 10% of their revenue. If this were to pass, it will impact North Dakota's smoke-free bar status and expose workers to secondhand smoke.

- If the intent is exempt cigar bars, these businesses should focus on selling cigars. As written, this will allow any bar that happens to sell cigars on the side to skirt the smoke-free law and allow cigar smoking.
- Appears to include even small countertop humidors.
- Ventilation does not work. Ventilation systems cannot remove carcinogens from secondhand smoke, and they fail to protect public health. Asking business owners to install an expensive system is burdensome and ineffective.
- There are no measures for active enforcement and verification.

This is an important issue for our organization and volunteer advocates in the state and ask that the committee votes for a Do Not Pass recommendation.

Thank you for your time.
Sara Mannetter
North Dakota Government Relations Director

#7912

Testimony – In Opposition of House Bill 1152 – Cigar Bar Tobacco Restrictions
Senate Industry Business and Labor Committee
Representative Klein, Chair
March 7, 2021

Chairman Klein, and members of the Senate Industry, Business and Labor Committee – My name is Duane Pool, I am a resident of District 47, an economist and biometrician. I am writing today to provide testimony in opposition of House Bill No. 1152. **Please Vote NO.**

Several years ago, I was contracted by the Bismarck Tobacco Free Coalition to evaluate the regulatory impact of the smoking ban on area restaurants and bars. I conducted a before and after analysis of the industry based on taxable sales reporting. Based on that knowledge of the local market, I am comfortable suggesting that the addition of cigar bars will have marginal if any increase in market revenue and would almost certainly exhibit a significant net loss in a cost-benefit analysis in the local market

Based on previous study, it will likely exhibit a substitution effect, wherein, patrons will shift from one facility to another and not lead to significant recruitment of new patrons to the market. If the beneficial justification is increased market revenue, then based on the previous studies, that justification would be a very weak stance given the well documented cost side of the regulatory impact analysis research for smoking that is readily available.

Another point to be made is that, as it stands, the current law treats everyone equally. If as a policy maker, you start making exceptions, you open the basic statute to equal treatment lawsuits in the future. Good public policy is consistent and fair.

Respectfully in opposition to House Bill No. 1152,
Duane Pool

#7929

Testimony in Opposition of HB 1152

Lynn Duong
4420 21st Street SE Apt. 303
Mandan, ND 58554
(701) 202-2298

Chairman Senator Klein, and members of the Industry, Business, and Labor Committee. My name is Lynn Duong. I currently serve as the student class representative of University of Mary's Respiratory Therapy junior class. I am writing to provide testimony in opposition of HB 1152.

As a student pursuing a career in respiratory therapy, the protection of North Dakota's Smoke Free Indoor Air law is very important to me and to my classmates. While our class learns about multiple lung diseases and what causes these diseases, we find that a common risk factor of all these lung diseases is the inhalation of or exposure to tobacco smoke. We continually provide care for patients in the hospital and we witness the suffering and detrimental health effects caused by second-hand tobacco smoke. We want to make known the dangers and risks that come along with the inhalation of and exposure to tobacco smoke.

Tobacco is responsible for approximately 480,000 deaths a year and 20.8 million premature deaths in the U.S. The Surgeon General has concluded that second-hand smoke causes lung cancer, heart disease, and stroke. In addition, as we are all aware, COVID-19 is a disease that is infectious to your lungs that continues to reign over our state and world. The exposure of SHS impairs our lung's ability to fight off COVID-19 and other diseases leading to increased symptoms and a prolonged treatment and recovery process.

Furthermore, the nicotine present in cigarettes, cigars, and vapes also causes health problems that affect the cardiovascular, respiratory, and gastrointestinal systems. According to the American Thoracic Society "smoking one large cigar can be the same as smoking an entire pack of cigarettes". While cigarettes have an average of about 8 milligrams (mg) of nicotine, many popular brands of larger cigars have between 100 and 200 mg, or even as many as 444 mg of nicotine. Nicotine is very addictive. According to the American Heart Association, nicotine is just as addictive, or even more so than heroin. Addiction takes away the true freedom to choose.

I, and the rest of the junior respiratory therapy class want to be able to make a difference by providing education on the importance of smoking cessation and looking out for the health of the people in our community. I urge you not to take away one of the greatest public health prevention measures, our North Dakota Smoke Free Law, because it protects everyone equally from the dangers of second-hand smoke.

Thank you for your time and consideration.

Sincerely,

Lynn Duong of Respiratory Therapy Class of 2022

References

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#7939

North Dakota House Bill 1152
Senate Industry, Business & Labor Committee
Do Not Pass Testimony

March 8, 2021

Dear Chair Klein, Vice-Chair Larsen and members of the Committee,

My name is Daphne Hall and I'm a volunteer advocate with the American Cancer Society Cancer Action Network (ACS CAN).

Tobacco is a killer and I'm asking you to fight back efforts to weaken our smoke-free indoor air law. As a cancer survivor myself, one of my main goals now is to do what I can to reduce the burden of cancer on our society as a whole. We know too well the risks that smoking and exposure to second hand smoke pose in the development of certain cancers.

The people of North Dakota overwhelmingly voted to pass the legislation in 2012. It wasn't even close. Every county in the state voted in favor. A proposal to change the smoke-free law to allow cigar smoking in some workplaces is a huge step backwards.

Smoking doesn't only affect those people who smoke. It affects the people around them including employees who do not have the option to leave. Every year, exposure to secondhand smoke causes more than 42,000 deaths in the United States, including over 7,000 lung cancer deaths among nonsmokers.

I vehemently oppose this bill and ask that you vote for a Do Not Pass recommendation.

A strong law covers all people including workers. Why in the world would we want to go backward? Everyone has the right to breathe smoke-free air and that includes those in hospitality venues, work environments, and other public places. A strong law prohibits all smoking including cigar use in all workplaces whether they sell cigars or not.

Thank you for your time and consideration.

Daphne Hall
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Baldwin, ND 58521
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#7956

TESTIMONY ON HB1152
67th Legislative Assembly
Senate Industry, Business and Labor Committee
Senator Jerry Klein, Chair
City of Grand Forks, ND
March 9, 2021

Chairman Klein and Members of the Senate Industry, Business and Labor Committee,

My name is Debbie Swanson and I am the Director of Grand Forks Public Health, a city/county department which provides services to Grand Forks County. I have worked in public health for 36 years and have 28 years of experience in tobacco prevention and control work.

In August 2010, the Grand Forks City Council implemented one of the strongest smoke-free ordinances in the state of North Dakota. This ordinance was widely supported by the Grand Forks community, as was voiced by constituents through opinion surveys both before and after the implementation of the law. In the months to follow, several other North Dakota cities also implemented similar ordinances. This swell of support led to the strengthening of North Dakota's current state-wide smoke-free law in the fall of 2012. This measure was passed by a majority of voters in every county of North Dakota, including 72.1% in Grand Forks County.

Comprehensive smoke-free laws [without exemptions] are the only way to protect the public from the dangers of secondhand smoke. HB1152 proposes the ability to create "cigar bars and lounges" that would allow for the smoking of tobacco products indoors. **These proposed amendments to our current statewide smoke-free law do not require a stand-alone building to open a cigar lounge.** The vague language in this bill may allow existing smoke-free businesses to create areas where cigars could be smoked. Venues where smoking may be allowed could be co-located in a retail complex where walls and smoke are shared**. Prior to the implementation of Grand Forks' current smoke-free law, Grand Forks Public Health responded to numerous secondhand smoke complaints over several years from a daycare facility and a music academy within the same retail complex as a "cigar lounge."**

Another very important benefit of comprehensive smoke-free laws are the protections provided to the workforce. While some may argue it is the employee's choice to work in a

smoke-filled venue, the current economic climate may not allow for individuals to choose where they are employed. Additionally, if a previously smoke-free business adds a cigar smoking area, employees previously protected by the smoke-free law may now face secondhand smoke exposure.

The American Society for Heating, Refrigeration and Air-Conditioning Engineers (ASHRAE) is a nationally recognized entity that develops standards for indoor environmental quality. ASHRAE holds the position that the only means of avoiding health effects and eliminating indoor secondhand smoke exposure is to ban all smoking activity inside and near buildings. ASHRAE does not consider ventilation and air cleaning or handling systems measures to control secondhand smoke exposure.

Tobacco use remains the number one cause of preventable death and disease in our state and nation. Cigars are tobacco products that contain many of the same cancer-causing substances as cigarettes and other tobacco products and should not be considered a safe alternative. One full-sized cigar can contain as much nicotine as one pack of cigarettes, creating concerns for tobacco-related addiction and dual use of cigars and other tobacco products.

The health community has made significant strides in reducing tobacco use and its related diseases in the last decade. Our population, along with other North Dakota municipalities with strong smoke-free ordinances, has become accustomed to smoke-free venues. Rolling back protections of our comprehensive state law would be a step backwards for the health of North Dakotans, especially those who may not be protected by a strong local ordinance.

To maintain the progress in addressing the toll of tobacco use since the passage of our comprehensive state-wide smoke free law in 2012, Grand Forks Public Health strongly encourages a **Do Not Pass** recommendation on HB1152.

Respectfully,

Debbie Swanson, MS, RN
Director, Grand Forks Public Health

#8017

TESTIMONY IN OPPOSITION OF HB 1152

Name Eric L. Johnson, M.D.

Address 1812 Belmont Road, Grand Forks, ND 58201

Phone 701 739 0877

Chairman Senator Klein, and members of the Industry, Business, and Labor Committee:

My name is Eric L. Johnson, M.D. I am providing written testimony and oppose HB 1152.

Tobacco in all forms remains a deadly and highly addictive substance. Secondhand smoke deaths are a reality, with about 41,000 deaths annually in the U.S. https://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/index.htm

As a physician, I see many patients with smoking related illness, some of whom never smoked themselves. North Dakota has one of the strongest smoke-free laws in the country. I personally did a study that was published in a leading medical journal that showed a decrease in heart attacks in Grand Forks after the smoke free ordinance was passed there, consistent with other data in other studies.

(E.L. Johnson, J.R. Beal Impact of a comprehensive smoke-free law following a partial smoke-free law on incidence of heart attacks at a rural community hospital. Nicotine and Tobacco Research, 15 (3) (2013), pp. 745-747 https://academic.oup.com/ntr/article/15/3/745/1092398?login=true)

Cigar bars are merely a loophole to bypass our law, which remains popular among North Dakotans. Over 80% of adults favor the smoke-free law. Cigar smokers make up only 4% of our adult population. About 20% of North Dakotans overall smoke. Changing our law, an action which would affect the 80% who don't smoke, seems counter-intuitive. North Dakota's smoke free law has been praised by the U.S Surgeon General as an example for other states to follow – it doesn't make sense to change something a law that is considered one of the best laws in the U.S.

Please feel free to contact me with additional questions.

Eric L. Johnson, M.D.

#8079

TESTIMONY IN OPPOSITION OF HB 1152

Trisha James
74 McGinnis Way
Lincoln, ND 58504
701-226-0168

Chairman Senator Klein, and members of the Industry, Business, and Labor Committee. My name is Trisha James. I am a wife, mother of 3, work as a registered nurse at the Sanford Oncology Clinic, and am on the executive board of the Bismarck Tobacco Free Coalition. I am here to provide testimony and opposition for House Bill 1152.

For almost 16 years, I have worked as an oncology nurse caring for patients with cancer. I have held the hand of a patient who can't breathe, so dependent on oxygen and a bipap machine. Listened to the sound of the terrible rattling cough of a patient with lung cancer, seeing them struggle to take a deep breath. Cared for a patient with a tracheostomy, watched their eyes get really big when they try to gasp for air, then working so hard to try to suction out their trach so they can breathe again. Given chemotherapy to so many patients, witnessed the side effects they experience, and tried to help them get through another treatment so they can have another day with their loved ones. One of my grandpas died from colon cancer; my other grandpa died due to complications from his emphysema and COPD. They both smoked for many years. My husband lost his grandpa as well to lung cancer attributed to decades of smoking.

HB 1152 could allow any bar to have cigars, if the sales are at 10% of gross annual sales, thus creating a loophole in the ND Smoke Free law. What happens when patrons decide to smoke cigarettes, e-cigarettes or hookahs? Who will enforce and regulate this? What if this cigar bar shares a wall with a daycare? There is no ventilation system that can get rid of second-hand smoke. We have made great strides in our community with reducing tobacco use rates and protecting individuals from secondhand smoke. Please don't let our state take a giant step backwards by allowing this law to pass.

I ask the Industry, Business, and Labor Committee to vote no on HB1152 for myself and my family, for my patients, their families and those who have lost loved ones due to the effects of smoking, and because over 80% of our state voted for a smoke free law. Thank you. This concludes my testimony.

#8168

Testimony on HB 1152
Senate Industry, Business and Labor Committee
March 9, 2021

Good morning Chairman Klein and members of the Industry, Business and Labor Committee. My name is Mary Korsmo and I am the Executive Director of the North Dakota State Association of City and County Health Officials (SACCHO). My testimony is on behalf of North Dakota's 28 local public health units and opposes HB 1152.

In 2012, our current comprehensive, smoke-free law passed by a majority of voters in every county in North Dakota. The ND smoke-free law was created to protect workers, residents and visitors from exposure to secondhand smoke in public places and places of employment. Passage of this bill would jeopardize this law only to accommodate the desires of 4% of the adult population.

HB 1152 does not control the businesses or entities sharing a wall with a cigar bar or lounge. The CDC, after much research, has determined that ventilation systems do not protect people from the dangers of secondhand smoke. This conclusion is also supported by the American Society for Heating, Refrigeration and Air-Conditioning Engineers reporting that even separately enclosed, separately exhausted, negative-pressure smoking rooms do not keep secondhand smoke from spilling into adjacent areas.

Cigars are not a safer alternative to cigarettes as they contain many of the same cancer-causing substances as cigarettes and other tobacco products. Tobacco use remains the number one cause of preventable death and disease in our state and nation. Any effort to diminish North Dakota's current smoke-free law is a step backwards to making ND a healthier, safer place to live and work. The benefits of our current smoke-free law should be honored to protect ALL North Dakotans.

The North Dakota Association of City and County Health Officials urges a DO NOT PASS on HB 1152. Thank you for the opportunity to offer this testimony for your consideration.

#8255

North Dakota Senate Industry, Business and Labor committee
HB 1152 – Cigar Bar Exemption
Do Not Pass Testimony – March 8, 2021
Testimony of Pat McKone, American Lung Association

Good afternoon Chair Klein, vice-Chair Larsen and Committee Members.

My name is Pat McKone and I am the Senior Director for Advocacy and Public Policy for the American Lung Association.

The American Lung Association is the leading organization working to save lives by improving lung health and preventing lung disease through education, advocacy, and research. The work of the American Lung Association is focused on four strategic imperatives: to defeat lung cancer; to champion clean air for all; to improve the quality of life for those with lung disease and their families; and to create a tobacco-free future. I am submitting this written testimony asking you to give HB 1152 – a bill allowing for the establishment of cigar bas in ND, a Do Not Pass,

In November 2012, North Dakota voters wisely opted to become smoke-free, leading the nation with a strong comprehensive model. Voters in **every** county in the state favored the law, which advances public health by protecting more workers, residents and visitors from secondhand smoke exposure in public places and places of employment.

Secondhand smoke (from cigarettes and cigars) has been proven to cause numerous health problems, including heart disease, emphysema, stroke, sudden infant death syndrome and cancer. Secondhand smoke contains toxic chemicals like formaldehyde, cyanide, carbon monoxide, ammonia and nicotine. Exposure to secondhand smoke causes preventable deaths from lung cancer and cardiac-related illnesses. The Centers for Disease Control and Prevention (CDC) makes clear that there is no safe level of exposure to secondhand smoke.

The proposed bill is concerning as it would allow smoking in bars that sell cigars (10% of their revenue) and so-called cigar lounges would weaken existing protections and pollute the indoor air in North Dakota. The bill also has no mention of enforcement, accountability, and verification.

Everyone deserves the right to breathe clean air and no one should have to choose between their health and a good job. Clearly, North Dakota's smoke-free law is NOT broken and doesn't need fixing.

We strongly encourage the committee to give this bill a Do Not Pass recommendation.

Sincerely,
Pat Mckone
Senior Director, Public Policy and Advocacy

2021 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Fort Union Room, State Capitol

HB 1152
3/22/2021

relating to cigar bars and lounges

Chair Klein opened the meeting at 2:45 p.m. All members were present. Senators Klein, Larsen, Burckhard, Vedaa, Kreun, and Marcellais.

Discussion Topics:

- Cigar bars
- Health Concerns

Senator Vedaa moved a DO PASS [14:47].
Senator Kreun seconded the motion [14:47].

[14:48]

Senators	Vote
Senator Jerry Klein	N
Senator Doug Larsen	Y
Senator Randy A. Burckhard	N
Senator Curt Kreun	Y
Senator Richard Marcellais	N
Senator Shawn Vedaa	Y

Motion failed: 3-3-0

Senator Burckhard moved a DO NOT PASS [14:49].
Senator Marcellais seconded the motion [14:49].

[14:49]

Senators	Vote
Senator Jerry Klein	Y
Senator Doug Larsen	N
Senator Randy A. Burckhard	Y
Senator Curt Kreun	N
Senator Richard Marcellais	Y
Senator Shawn Vedaa	N

Motion failed: 3-3-0

Senator Larsen moved without recommendation [14:50].
Senator Vedaa seconded the motion [14:50].

[14:50]

Senators	Vote
Senator Jerry Klein	Y
Senator Doug Larsen	Y
Senator Randy A. Burckhard	Y
Senator Curt Kreun	Y

Senator Richard Marcellais	Y
Senator Shawn Vedaa	Y

Motion passed: 6-0-0

Senator Larsen will carry the bill [14:50].

Chair Klein ended the hearing at 2:50 p.m.

Isabella Grotberg, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1152: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1152 was placed on the Fourteenth order on the calendar.