

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2116

2001 SENATE JUDICIARY

SB 2116

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2116

Senate Judiciary Committee

Conference Committee

Hearing Date January 15th, 2001

Tape Number	Side A	Side B	Meter #
1	X		0.0-38.8
January 16th, 2001 (tape 2)		X	45.6-end
January 16th, 2001 (tape 3)	X		0
Committee Clerk Signature			

Minutes:

A BILL FOR AN ACT TO AMEND AND REENACT SECTION 12.1-31-03 AND SUBSECTION 17 OF SECTION 27-20-02 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO THE SALE OF TABACCO TO MINORS; AND TO PROVIDE A PENALTY. EDWARD ERICKSON, assistant attorney general speaking in favor of SB 2116. (Testimony attached)

SENATOR TRENBEATH judge having the ability to order a person take an addiction treatment test, how do you do this if he forfeits his bond?

EDWARD ERICKSON there would still be a hearing if the prosecutor wants.

SENATOR TRENBEATH how does this say that?

EDWARD ERICKSON prosecutor would call for a hearing.

SENATOR TRENBEATH I don't see that here.

EDWARD ERICKSON perhaps an amendment to this bill would be possible.

SENATOR TRENBEATH I have been a defense attorney and the first thing that will happen. The person will avoid the bond and the judge will order treatment, then the defense attorney will say you can't.

EDWARD ERICKSON perhaps we could make an amendment in subsection 4 to provide a procedure where the state or city attorney would have the option of adding a hearing for this purpose.

SENATOR TRENBEATH it would seem that this would just clutter matters. You must have a court appearance.

EDWARD ERICKSON I could draw up some amendments to go with this.

SENATOR TRENBEATH I would like to see it in both fashions of a proposed amendment.

SENATOR NELSON on page 2, line 10 and 11 you say more stringent I can't find that. Is that in the original bill because I can't find that in my bill?

EDWARD ERICKSON I may have printed my differently. My testimony is on page 1 line 21-24.

SENATOR WATNE on the 2nd page where a person is required to attend a smoking addiction treatment course. Are there approved courses? Or can anyone set up a course.

EDWARD ERICKSON there are health centers. We don't want a specific treatment course that would freeze in place.

SENATOR LYSON for a noncriminal offense a fee has to be set by the judge?

EDWARD ERICKSON the problem came with the range of possible fees.

SENATOR LYSON maybe an alternative to the fee would be community service. I don't want this to be a money maker.

EDWARD ERICKSON I don't think this would be money maker. More of a money loser.

SENATOR LYSON this money will be taken from mommies pocket.

SENATOR TRAYNOR from what I understand you want to make the penaltys uniform across the state and the procedure as well.

EDWARD ERICKSON yes.

GREG SUND, Dickinson City Administrator, met with local tobacco coalition who hopes to prevent minors from smoking. One of their concerns is the fee, which they would like more flexibility. Some want more, others less. We would like to make a fee of at least \$25 plus community service. These courses aren't addiction courses they are more preventive.

SENATOR TRENBEATH constitution rears its ugly head. I don't think you can give the judge a precedent to set his own fees. The fee must be set in the bill.

GARY SUND intention is the way the ordinance would be written on a local level.

SENATOR DEVER I question the success of a program which forces kids to a part of.

GARY SUND if someone is addicted it's to late.

SENATOR WATNE this bills original intent was to punish.

GARY SUND yes probably case. In some communities the fee was larger.

GREG WALLACE, office of state court administrator, favors SB 2116. (testimony attached)

JERRY JUMSTAD, representing ND league of cities, favors SB 2116. Supports the change of giving the judge range of penalty.

SENATOR TRAYNOR do you have any comment on the bill taking away home rule.

JERRY JUMSTAD in regards to home rule cities don't have flexibility that they would like to have. From the city view point this is an improvement to the current law.

SENATOR TRENBEATH wouldn't it be an improvement to the city's flexibility regarding a fee of not less than \$25.

Page 4

Senate Judiciary Committee

Bill/Resolution Number SB 2116

Hearing Date January 15th, 2001

JERRY JUMSTAD, yes a fee of not less than \$25 would set a range.

SENATOR TRENBEATH that would allow them their own flexibility.

SENATOR WATNE municipal judge would have the flexibility. However this happens in juvenile court. Where would this end up? Municipal or juvenile.

JERRY JUMSTAD under current law this bill would take them to municipal court.

SENATOR TRAYNOR that's really the point of the bill.

JERRY JUMSTAD that's the idea.

JUNE HERMAN, American Heart Association, neutral in regards to SB 2116. (Meter 28)

(Testimony attached)

SENATOR TRAYNOR have you seen the bill? Do you have any comments on the portion of the bill page 2 line 5 and 6 "A judge may also require a person found to have violated subsection 2 to attend a smoking or tobacco addiction treatment course. Do think the language is appropriate.

JUNE HERMAN the heart association cannot comment on that.

CAPTAIN JEFF BALENTINE, of the Minot police department was present to support SB 2116.

SENATOR TRAYNOR MOTIONS TO HOLD BILL (meter # 38.8) UNTIL COMMITTEE CONSIDERS AMENDMENTS TO THE BILL. IN THE AREA OF THE PENALTY AND ALSO THE NEED FOR THE HEARING. THIRD CONCERN IS WHETHER LANGUAGE ON LINE 6 IS APPROPRIATE. HEARING IS CLOSED.

January 10th 2001 tape 2. meter # 45.6

SENATOR TRAYNOR we are discussing 3 amendments to the bill.

SENATOR TRENBEATH does this merit severity to raise it out of juvenile court. I move to amend verision 1 to the bill. SENATOR BERICIER seconded.

1-16-01

SENATOR NELSON does this conclude judge to say this is not an option.

SENATOR TRENBEATH yes I am. Make it like a traffic violation. But give them treatment.

SENATOR LYSON I disagree with the bill.

SENATOR BERICIER I second so we can get into discussion.

SENATOR WATNE so we are reducing the criminal offense from a \$500 dollar fine. If we defeat the bill.

SENATOR LYSON it won't work.

SENATOR TRENBEATH your saying education courses as being punishment. It won't work.

SENATOR LYSON yes it will.

SENATOR NELSON moves the amendment. SECONDED by SENATOR WATNE.

SENATOR TRENBEATH moves to amend bill on page 2 line 15.

SENATOR TRAYNOR strike line 3. (meter # 7)

SENATOR TRAYNOR closed the hearing. **SENATOR WATNE MOTIONED TO AMEND NOT LESS THAN 25 DOLLARS. SECONDED BY SENATOR BERCIER. VOTE INDICATED 6 YEAS, 1 NAYS, 0 ABSENT AND NOT COUNTING. SENATOR TRENBEATH MOTIONED TO AMEND SHORTER VERSION OF BILL. SECONDED BY SENATOR BERCIER. VOTE INDICATED 6 YEAS, 1 NAYS, AND 0 ABSENT AND NOT VOTING. SENATOR TRENBEATH MOTIONED TO DO PASS AS TWICE AMENDED. SECONDED BY SENATOR BERCIER. VOTE INDICATED 6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING.**

FISCAL NOTE
 Requested by Legislative Council
 12/26/2000

Bill/Resolution No.: SB 2116

Amendment to:

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

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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

The fiscal impact of this bill, which affect cities, is unknown. The impact is wholly dependent on the scope of enforcement by law enforcement officers on young people under age 18 who are using tobacco products.

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

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

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

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

Name:	Kathy Roll	Agency:	Office of Attorney General
Phone Number:	328-3622	Date Prepared:	01/10/2001

REPORT OF STANDING COMMITTEE

SB 2116: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2116 was placed on the Sixth order on the calendar.

Page 2, line 2, remove the overstrike over "~~a fee of not less than~~"

Page 2, line 3, remove the overstrike over "~~twenty five dollars~~" and remove "the same disposition as subsection 4 for those provisions"

Page 2, line 5, remove "A judge may also require a person found to have violated subsection 2 to"

Page 2, remove line 6

Renumber accordingly

2001 HOUSE JUDICIARY

SB 2116

