

Testimony – In Opposition
House Bill 1229 – Tobacco Restrictions
Industry Business and Labor Committee
Representative Louser, Chair
January 16, 2023

Chairman Louser, and members of the House Industry, Business and Labor Committee – My name is Duane Pool, a citizen from District 47, an economist and biometrician. I am writing today to provide testimony in **opposition** of House Bill No. 1229.

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. An anecdotal irony is that I am allergic to smoke and my co-author, who has passed away, 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 (very little) if any increase in market revenue.

Based on previous study, patronage and the associated revenue will likely be absorbed in mostly 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 these previous studies, that justification would be a relatively weak stance given the well documented cost side of the regulatory impact analysis research for smoking that is readily available at the Bismarck Tobacco Free Coalition and in the economic literature.

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. Also, the threshold for cigar sales leads one to wonder if the intent is to circumvent current law with 98% of sales coming from non-target sales.

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