



1-22-21

Legislative Update

It was a very busy week in Bismarck. Both of the bills (SB 2166–**enhancing retail theft penalties** and SB 2188–a bill calling for **state preemption on the sale of consumer merchandise**), were both heard in their respective committees. As you can see from the pictures, key retailer testimony was provided from members of the joint association.

SB 2166: Due to the good work of the retailers who testified, amendments were drafted for SB 2166 that make the bill even stronger. It takes the number of arrests from 4 to 3 for a repeat theft offender to be charged with a CLASS A Misdemeanor. It also puts an emergency clause on the bill so when the bill passes in the House, the governor can sign it immediately into law. **SB 2166 will likely be on the full Senate floor for a vote early next week. Please reach out to your local senator and urge them to VOTE YES ON SB 2166.**

SB 2188: SB 2188 is still in committee, but should be passed out of Senate Political Subdivisions late next week. Best guess, the bill will come before the full Senate for vote during the first week of February. **The Association office will keep you posted on when you will need to contact your local Senator and urge them to VOTE YES on SB 2188.**

SB 2156: Also of note this week, was the passage of SB 2156 on the full floor by a 40-7 count. This was the bill to raise **the legal age for purchasing tobacco** products in ND to 21, mirroring federal law. **NDPMA testified in support of the bill.**

Aside from SB 2166 and SB 2188, key bills of note the joint association submitted in-person and/or written testimony on for January 18-22 included:

HB 1204: Limitations on requirements to wear a **face mask at work**. **NDRA/NDPMA and NDPGA opposed bill.** Received an 11-2 “DO NOT PASS” out of IBL Committee. Will be on the House Floor next week for full vote.

HB 1307: Public accommodation may not refuse service for **failure to vaccinate**. **NDRA/NDPMA and NDPGA provided written testimony in opposition.** Received a “DO NOT PASS” out of House Human Services. Should be on the House floor next week for full vote.

HB 1320: **Immunizations** required for entry to school or day care. **NDRA/NDPMA and NDPGA provided written testimony in opposition.** This bill is still in House Human Services.

SB 2189: Imposing a tax on **electronic smoking devices**. **NDPMA testified in opposition.** Bill is still in Senate Finance and Tax Committee. The Association will let you know when marketer need to contact local Senators to urge a NO VOTE on SB 2189.

SB 2190: Relating to on-line sales of **tobacco products**. NDPMA testified in a neutral capacity. Bill is still in Senate IBL Committee. Association office will keep you posted on progress and when marketer action is needed.

[HB 1299](#): Prohibiting a retail establishment from refusing to **accept cash as payment**. NDRA/NDPMA testified in opposition. Bill received a “DO NOT PASS” recommendation out of House IBL. Bill should be on the House floor for full vote on Friday January 22.

The week of January 25-29 will be another week loaded with hearings impacting all NDRA/NDPMA and NDPGA. Key bills include:

[HB 1159](#): \$100,000,000 in Legacy earnings for **natural gas infrastructure grants**—NDPGA will oppose.

[HB 1175](#): **Covid-19 liability protection** for businesses. NDRA/NDPMA and NDPGA will support.

[HB 1414](#): Relating to a deduction of **retailer sales tax** remitted. Retailers with 16 employees or less would be allowed to keep all state sales taxes collected on their first \$100,000 of sales during this current year. NDRA/NDPMA and NDPGA will monitor this bill.

[HB 1419](#): This is another attempt at charging **an infrastructure fee** in lieu of special assessments. It’s supposed to be more business friendly to larger retail properties. NDRA/NDPMA and NDPGA will monitor this bill.

You can click [here](#) to view all bills NDPMA/NDRA/NDPGA are following at this time. You will also find a [hearing schedule](#) for the upcoming week.

Please take the time to regularly and carefully review this very important document.

Please be ready and willing to contact your local legislators should it be needed. As I stated before, your voices are going to be more important than ever during this legislative session as procedures have been altered due to the pandemic. The Association will be front and center doing its best to represent and protect the business interests of all ND retailers. That being said, don’t be afraid TO MAKE YOUR VOICES HEARD! If you wish to testify on a bill, the association office will be glad to help you figure out how the process works. If you are going to testify, please let the association office know so we can work with the chairperson of the committees to get you on the docket.

NDPMA/NDRA/NDPGA Positions on Key Issues.

Below are general statements regarding some of the issues which the three Associations working on during the session. It is by no means a complete list or a complete description of our positions.

Biofuels/Ethanol: NDPMA will continue to oppose all funded or unfunded ethanol mandates, including any legislation to repeal the state’s ethanol labeling laws. After several meetings over the course of the last year with the several of the state’s ethanol groups, NDPMA believes the following legislation will be brought forward:

- **Amend statutory language from current labeling requirement of ethanol blends over 1 percent to anything over 10 percent**

Below is the current ND law:

23.1-13-04. Retail sale of alcohol-blended gasoline - Label requirements.

A dealer may not sell at retail alcohol-blended gasoline unless the dispensing unit and any price advertising bear the name of the alcohol blended with the gasoline if the alcohol-blended gasoline consists of one percent or more by volume of any alcohol. The disclosure must be in letters at least the same size as those used for the label of the basic grade of gasoline and must be next to the gasoline grade label. A producer of alcohol-blended gasoline may provide a retailer with a label promoting the benefits of alcohol-blended gasoline, if the label at least meets the requirements of this section.

23.1-13-06. Retail sale of alternative fuels - Notice required.

A dealer may not sell at retail alternative fuel unless the dispensing unit and price advertising contains the name and main components of the alternative fuel or alternative fuel blend. The disclosure must

follow the same labeling specifications that apply for petroleum-based fuels. The department shall adopt rules under chapter 28-32 for labeling of petroleum products and alternative fuels. A producer of alternative fuels or alternative fuel blends may provide a retailer with a label promoting the benefits of the alternative fuel if the label meets the requirements of this section.

- **Permit the use of blends up to 15% ethanol in retail fuel infrastructure with year-round sales of E15**
- **Address statutory or administrative labeling requirements that inhibit Unleaded88 (E15) marketing**

While NDPMA continues to support the research and development of alternative fuels, NDPMA will vigorously oppose any changes to the State's Century Code which do not provide consumer protection, fairness in the marketplace and that could jeopardize public and environmental safety.

PTRCF & Tanks. NDPMA is dedicated to protecting and ensuring the continuity, financial security and stability, independence, and longevity of the Petroleum Tank Release Compensation Fund (PTRCF). NDPMA continues to work with the Department of Environmental Quality on the revamping/restructuring of the PTRCF rules.

Electric Vehicles (EVs). NDPMA is keeping an eye on EVs and other so-called "new" fuels and how they impact liquid motor fuels. EVs must be taxed and regulated exactly like other motor vehicles and other motor fuels.

Tobacco: NDPMA will continue to oppose tobacco tax increases and unreasonable regulations. NDPMA is championing legislation for state preemption of the sale of consumer merchandise. This legislation will stop local government from passing ordinances that prohibit the sale of certain products. Government should tell any business owner what they have the right to legally sell.

Transportation Funding. NDPMA will be monitor and most likely oppose any potential legislation related to gas and diesel fuel tax increases.

NDPGA will also be monitoring all pieces of legislation related any potential state funding of natural gas expansion.

NDPGA will also be monitoring any pieces of legislation that might give the electrical industry a competitive advantage in the marketplace over the propane industry

NDRA championing legislation to increase retail theft/shoplifting penalties in ND. This bill was developed from discussions between the ND Attorney General's Office and NDRA retailers. In particular this language seeks to severely punish repeat offenders.

NDRA is one of a large group of business associations pushing for limited liability protection for all businesses due to the Covid-19 pandemic. This bill is being spearhead by GNDC.

State Budget. Money will be very tight in the 2021-2023 biennium. **All three Associations** will need to be extra vigilant for fee and tax increases.