

PLAINTIFFS' EXHIBIT 1429
DATE 10-16-97
RICHARD G. STIREWALT
REG. PROF. COURT REPORTER

28-Mar-85

VIA ELECTRONIC MAIL

MEMORANDUM

TO: Bill Buckley
FROM: Michael Brozek
RE: Minnesota - Legislative Status Report

Bill, I think it appropriate to compile a complete status report on Minnesota as that legislature "serves and veers" to its adjournment on May 20. The following information will serve as a general outline of legislation that has already been introduced as well as comments concerning the outlook for each legislative measure.

Frankly, our industry could very well view this session of the Minnesota legislature as a two-act play: "BK" and "AK", that is "Before Koop" and "After Koop." In a bold and quite effectively strategized move, our opponents in Minnesota were able to bring in Surgeon General Koop for several days to act as "propellant" for the report of the Technical Advisory Committee on Nonsmoking and Health. It is quite clear that Koop's presence gave a new focus to an admittedly "scattered" effort by the Minnesota lung, cancer and heart organizations as well as raising the political profile of the Minnesota Department of Health in this effort. Although much of the legislation was already drafted, the Koop visit allowed the media to give credibility to some legislative measures that were being contained by our lobbying team in Minnesota.

With that preface, the following information is the most recent report of this legislature's progress:

SF 38 Diessner (DFL-Afton) Measure referred to the committee on Health and Human Services. Would increase state excise tax on cigarettes to 54 cents a pack, earmarking those revenues for State Medical Assistance Fund. Language contained in this legislation formally refers to "tobacco related illnesses."

ACTION/NOTES: No action at this time. Efforts are continuing to kill this bill in committee.

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SF 92 Bertram (DFL-Paynesville) Referred to the committee on Veterans and General Legislation. Measure would take 2.5% of existing revenues from cigarette tax in order to segregate those revenues for a "Fire Safety Account."

ACTION/NOTES: No action scheduled. Efforts are continuing to prevent committee action. Similar to legislation defeated in 1984.

SF 442 Bertram (DFL-Paynesville) For some bizarre reason, Senator Bertram introduced two identical bills. Speculation is that one of these bills might be "gutted" for other purposes.

ACTION/NOTES: Same as SF 92.

SF 472 D. Johnson (DFL-Cook)
HF 556 Dempsey (IR-New Ulm) Companion legislation originally designed as a noncontroversial "housekeeping" or remedial measure. In Senate Tax Committee, measure was amended to (1) place a 72 cent tax on sample cigarettes, (2) remove enforcement language pertaining to Unfair Cigarette Sales Act and (3) repeal stamping requirements on Indian sales of cigarettes.

ACTION/NOTES: Measure passed Senate committee where it was sent to the floor for debate. On 3/25/85 industry lobbyists successfully deleted the 72 cent per pack tax on sample cigarettes.

House version passed Taxation Committee on 3/12/85 WITHOUT any offensive language. However, an attempt was made to amend the legislation with the result being a total ban on cigarette sampling in Minnesota. That motion failed by a vote of 15-12. Unfortunately, that motion will most assuredly be repeated on the House floor.

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HF 662 Hartinger (IR-Coon Rapids) Referred to Committee on Health and Human Services. Requires all smoking and nonsmoking areas in public places be "aesthetically equal."

ACTION/NOTES: Since nobody understands what this guy is trying to do, we will do our best to keep bill in committee.

SP 776 Nelson (DFL-Austin)
HF 810 Quist (IR-St. Peter) Companion legislation. This is Governor Perpich's priority legislation. Bill would increase cigarette tax by 15 cents per pack in order to segregate revenues for youth education, community "stop smoking" programs, workplace initiatives, sampling ban, advertising bans, sewer construction, mosquito control and general mischief.

ACTION NOTES: Senate version passed the Committee on Health and Human Services but has been successfully rereferred to the Committee on Education. From Education, if we are successful, it will be rereferred to Senate Finance and then to Senate Tax. It is at Finance Committee level that we hope to defeat this measure.

The House version was successfully rereferred to the Tax Committee in order to keep it away from the rabidly anti-industry Committee on Health. Pressure is mounting and we are fearful that a backlash is developing, to have this legislation heard in the House Health Committee. Legislative counsel is doubtful that measure can be killed in Health Committee. If Health Committee recommends passage, we will move to send the bill to the following committees: House Education, House Appropriations and House Taxation. Any floor battles would prove costly and even unsuccessful.

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HR 1058 D. Carlson (IR-Sandstone) Referred to the Environmental and Natural Resources Committee. Legislation to increase cigarette tax by 5 cents per pack earmarking those revenues for the Minnesota Commission on Natural Resources.

ACTION/NOTES: Since this legislation was identical to legislation defeated last session, it will most likely get a hearing.

Legislative counsel David Krogseng is quite concerned about rumors to the effect that more legislation against our industry is ready to be introduced. For example, a two cent per pack tax increase on cigarettes for a Maternal Child Healthcare bill, segregated revenues for arcane pet projects and various "apple pie" anti-smoking programs. Therefore, our legislative counsel feels that we may face a multitude of tax increase levels, smoking restrictions and sampling bans late in the legislative session. A firm rule of this legislative session is the April 4 "cut off" date. That rule states that all legislation to be considered by the house of origin must advance past the committee stage in order to be heard on the floor before adjournment. That sounds hopeful, but we are reminded that this rule does not affect any legislation in committees on appropriations, finance or taxation.

The Minnesota legislature adjourns May 20. We face anywhere from 15 to 25 anti-industry legislative measures. As Surgeon General C. Everett Koop stated in his appearance before a legislative committee in Minnesota two weeks ago, "I want to celebrate the tenth anniversary of this law (Minnesota's Clean Indoor Air Act). Minnesota has provided a model for the country." The Surgeon General continued by stating that he would use the report of the Minnesota Technical Advisory Committee on Nonsmoking and Health as the model for his efforts nationwide. Since the Surgeon General is keeping a close watch on the activities of the Minnesota legislature with regard to the passage of the recommendations contained in that study, it would be satisfying if the legislature saw fit to reject them.

KPB/jmr

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