

Valued NDPMA Member:

North Dakota's 61st State Legislative Assembly has adjourned. Once again, the association had what appears to be a very successful session. It was a different session for NDPMA. The association wasn't on the defensive near as much as in the past. I thank all members for their help and support throughout the legislative process. It's your voices that make the real difference on the Hill.

Rather than go through every bill we've been tracking, I would just like to highlight the bills NDPMA has given the most attention to during the session. We have all the bills listed on the website. I would be happy to answer any questions you have about specific bills. Just call me at your convenience.

Bills of note include:

HB 1047 & HB 1484 Hazardous chemicals preparedness and response program fees:

HB 1047 bill would have raised the individual cost of a hazardous chemical registration fee from \$25 to \$52. It somewhat Mirrors HB 1484 which takes the total amount a hazardous chemical operator/handler who stores these chemicals must pay from \$150 to \$416 total. HB 1047 came out of House appropriations 22-0 DNP and was defeated on the floor by a 85-5-4 vote. HB 1484 came out of approps 13-12 DP. It passed on the floor by a 52-42 vote. In the Senate the bill came out of appropriations 13-0 DP. It passed on the Senate floor by a 46-1 count. Please keep in mind these fees have not been increased for 15 years. This bill carried a fiscal note of \$70,000 for the biennium.

HB 1098 Effective date for petroleum release mediation:

HB 1098 removes the sunset clause from the Petroleum Tank Release Fund. It just that simple. The yearly registration fees now paid by marketers will now be permanent, rather than subject to repeal. This bill passed the House by a 93-1 vote. The bill passed the Senate by a 44-0-3 count.

HB 1368 relating to the reduced ignition propensity standards for cigarettes:

HB 1368 is a bill brought forward by Altria. It basically calls for the replacement of the current cigarette with a new cigarette containing several "burn" bands. These bands will extinguish the cigarette automatically if it's not smoked for a period of time. The bands are in place to help curtail cigarette fires. About 35 other states have moved similar legislation. NDPMA wanted to make sure a fair amount of time was provided to move through old stock before the new cigs were introduced. It passed the House by a 80-12 vote. This bill had a battle in the Senate and ended up in conference committee despite no one testifying against it in a Senate hearing. After about 5 conference committee meetings, the conferees agreed on new bill language and HB 1368 passed on the Senate floor by a 26-21 vote. This act takes effect August 1, 2010.

HB 1195: Relating to indemnity agreements in motor carrier transportation contracts. This bill was designed to hold harmless a transport or motor carrier operator while at a loading site. Basically, if the driver isn't responsible for an

accident that takes place at a loading facility, the company they work for shouldn't be held responsible. NDPMA supported this legislation. This bill passed the House by a 91-0-3 vote. It was amended and passed the Senate on a 44-3 vote.

SB 2197 RJR vs. Altria smokeless tobacco tax:

This bill received a lot of attention in the Senate. SB 2197 would have taxed chew based on wholesale purchase price rather than weight in ounces. The method currently used by the state for assessing tax is weight based. This bill came out of The Senate IBL committee 4-3 DNP. It was defeated on the Senate floor by a 25-21-1 vote.

SB 2224 relating to refund on diesel taxes for refrigerator units:

This bill will allow truckers to file for a tax refund on diesel fuel used in refrigeration units. After visiting with the tax department and several major truck stop operators, NDPMA decided to monitor this bill in the Senate. The tax department has what it considers a workable plan in place for tracking this fuel. A trucker will need to have separate line items on a till receipt in order to qualify for a refund. This bill passed the Senate by a 36-10-1 vote. NDPMA can certainly address any marketer concerns on the House side. As this bill moved to the House, NDPMA sought out marketer opinions. All the truck stop operators contacted felt if the trucking industry was seeking this exemption, then retailers should attempt to accommodate their wishes. In fact, some retailers felt not having the exemption was hurting their businesses. Aside from the administration of the paperwork with the exemption, NDPMA's only other concern was the fear of drive offs. The House passed the bill by a 93-0-1 vote.

SB 2012 North Dakota Department of Transportation Budget

NDPMA was monitoring this bill simply to make sure no gas or diesel tax increases would be brought forward. It was also important to make sure the need money could be generated to fund road repairs after the winter and spring snow disasters. Leadership on both sides of the aisle agreed to a 1.3 billion dollar DOT budget, including nearly 160 million dollars in funding to help with road repair for flooded areas. Included in this package was a one time transfer of 25% of the state motor vehicle excise tax to the highway fund. Senator Rich Wardner of Dickinson made it clear when carrying the bill on the floor it was imperative future sessions look at other avenues besides gas or diesel taxes to fund road repair in the state. The bill passed both chambers unanimously.

SB 2228 establish state biofuels blender pumps and renewable energy grant program:

SB 2228 sets aside two million dollars for blender pump installation. NDPMA agreed to support this bill as long as amendments were in place to help make sure any retailer installing blender equipment had compatible infrastructure in place. The State Department of Health officials agree. This bill passed the Senate by a 44-2-1 count. The bill was amended in the House and through conference committee to use one million dollars in general funds and another one million dollars in federal stimulus money as funding sources for any potential projects. It also has a cap of 2% per retail outlet. This means a marketer could get no more than \$40,000 per site to install blending equipment.

All of the money for SB 2228 was appropriated in SB 2018. SB 2018 is the Department of Commerce Budget Bill.

The Department of Commerce will be administering the funds. NDPMA has been given assurances Commerce officials will work closely with all involved parties to make sure all concerns are addressed in the grant application process before any money will be distributed.

Workforce Safety Issues:

NDPMA worked closely with other business associations regarding WSI bills. NDPMA owes a big thanks to the ND Chamber of Commerce (Mr. Bill Shalhoob, chamber lobbyist) for carrying the water on a great portion of these bills. Below is the WSI bill summary:

Bill Number	Bill Title	Position
HB 1097 - FAILED TO PASS	Relating to limitations of withholdings of an employer from compensation due employees	Monitor
HB 1408 - FAILED TO PASS	Relating to allowing employers to self-insure for workers' compensation coverage	Oppose
HCR 3008	Study workers' compensation laws in this state and other states with respect to prior injuries, preexisting conditions, and degenerative conditions	Support - PASSED
HB 1201	Relating to changing the name of the workforce safety and insurance office of independent review	Support - PASSED
SB 2058	Relating to distinction between workers' compensation independent medical examinations and independent medical reviews	Support - PASSED
SB 2057	Relating to workers' compensation permanent partial impairment awards for loss of vision; to provide for application; and to declare an emergency.	Support as Amended - PASSED
SB 2056	Relating to workers' compensation mileage reimbursement for injured employee's medical travel; and to provide for application	Support - PASSED
HB 1035	Relating Workforce Safety and Insurance reserves	Monitor - PASSED
HB 1101	Relating to workers' Compensation dependency allowances, preacceptance disability benefits, maximum disability benefits, travel and other reimbursement, death	Support - PASSED

	benefits, and burial expenses; and to provide for application	
HB 1455	Relating to workers' compensation benefits for surviving spouse of permanently and totally disabled injured employee; and to provide for application	Support as Amended - PASSED
HB 1064	Relating to cost-of-living adjustments for workers' compensation total disability benefits; to provide for application; to provide an effective date; and to declare an emergency.	Support - PASSED
HB 1063	Relating to workers' compensation coverage for preexisting conditions; to provide for application	Support - PASSED
HB 1062	Relating to workers' compensation rehabilitation services pilot programs; relating to expansion of workers' compensation rehabilitation services; and to provide for a report to the legislative council	Support - PASSED
HB 1061	Relating to workers' compensation definition of artificial members as it relates to compensable injuries; and to provide for application	Support - PASSED
HB 1037	Relating to the independent performance evaluation of Workforce Safety and Insurance	Support - PASSED
HB 1036	Relating to the calculation of Workforce Safety and Insurance premiums	Support
HB 1160 - FAILED TO PASS	Relating to examination of Workforce Safety and Insurance by the Insurance Commissioner; and to provide a continuing appropriation	Oppose
SB 2435 - FAILED TO PASS	Relating to the exercise of continuing jurisdiction by workforce safety and insurance	Oppose
SB 2432	Relating to preferred providers for work-related injuries	Oppose - PASSED
SB 2419	Relating to workers' compensation vocational rehabilitation awards; and to provide for application	Support as Amended - PASSED
SB 2059	Relating to workforce safety and insurance payment of an injured employee's attorney's fees for a case review or	Oppose

	settlement proposal; to provide for a report to the legislative assembly; and to provide for application	
HB 1151	Relating to reporting requirements in safety grant programs; relating to definition of wages, information fund, and confidentiality of employer files for workforce safety and insurance purposes; relating to rules for mine foremen	Support
HB 1561	Relating to a treating doctor's opinion in workers' compensation decisions and appeals	Support as Amended - PASSED
HB 1524 - FAILED TO PASS	Relating to workers' compensation fraud; and to provide a penalty	Oppose
HB 1410 - FAILED TO PASS	Relating to workers' compensation offset for social security retirement benefits	Oppose
SB 2434 - FAILED TO PASS	Relating to reapplication for workers' compensation disability benefits	Oppose
HB 1427 - FAILED TO PASS	Relating to an injured worker's request for workers' compensation to exercise continuing jurisdiction	Oppose
SB 2430 - FAILED TO PASS	Relating to the duration of workers' compensation temporary partial disability benefits	Oppose
HCR 3013	A concurrent resolution directing the Legislative Council to study the availability of legal representation to assist injured employees in understanding and pursuing Workforce Safety and Insurance decisions	Neutral - PASSED
SB 2386 - FAILED TO PASS	Relating to workers' compensation definitions for compensable injury, permanent total disability, and temporary total disability and workers' compensation aggravation awards	Oppose
HB 1542 - FAILED TO PASS	Relating to construction of workers' compensation claims	Oppose
HB 1525	Relating to workers' compensation additional benefits payable	Support as Amended - PASSED
HB 1464	Relating to the workforce safety and insurance personnel	Support as Amended -

	system and spending authority	PASSED
SB 2433	Relating to work searches by disabled workers	Oppose - PASSED
HB 1247 - FAILED TO PASS	Relating to workers' compensation dependency allowances	Oppose

Tax Bills:

SB 2199: This turned out to be the major tax bill of the session. It sets up roughly a 300 million dollar property tax relief plan, a 90 million dollar individual income tax relief plan and a 10 million dollar corporate tax relief plan for the state. Each one of these bills stood on its own during the first part of the session, but were lumped into one bill during the conference committee process.

Propane Bills:

NDPGA brought forward one major piece of legislation during the session's first half. **HB 1417** centered around limited liability legislation for North Dakota's propane marketers.

Specifically, the law had two sections related to limiting liability for propane companies. The first ensures propane companies and their employees that no legal action could be taken against them if an alleged injury, damage or loss was caused by an alteration, modification, or repair of a propane system or appliance that was done without their knowledge or consent.

The second section ensured propane companies and their employees that no legal action could be taken against them if an alleged injury, damage or loss was caused by use of a propane system or appliance in a manner or for a purpose other than that for which the equipment or appliance was intended or could reasonably have been expected.

The bill was given a fair hearing and came out of committee 7-6 "Do Not Pass". It was heard on the floor and defeated by a 61-30-3 vote.

While the bill went down in defeat, it was interesting to see all the different groups which came out in support of the bill. It points out the need for such legislation. Apparently, this wasn't the time. I just hope NDPGA's proactive approach on this issue can pay dividends before a major incident takes place and the state decides it will take the issue of into its own hands in turn developing legislation which could have a negative impact on propane marketers across North Dakota.

HB 1082 Vending machines sales tax: **Supported/Passed**
HB 1083 Due date for sales tax returns in odd-numbered years: **Supported/Passed**

HB 1099 Employees' remedies and the limitations on wages collectible:
Monitored/Passed

HB 1130 Vehicle registrations for purposes of highway tax distribution fund
allocations: **Monitored/Passed**

HB 1244 relating to defrauding a urine test: **Monitored/Passed**
HB 1348 relating to the possession of a firearm or dangerous weapon by a person
licensed to carry a concealed weapon: **Monitored/Passed**
HB 1350 money for construction of a great plains applied energy research center:
Monitored/Passed
HB 1351 relating to the carrying of a firearm at a public gathering: **Monitored/Passed**

HB 1407 relating to registration fee for the public transportation fund:
Monitored/Failed

SB 2101 Rounding of calculations for employer unemployment compensation
contribution rates: **Monitored/Passed**
SB 2102 Penalty for failure to submit employer contribution & wage reports:
Monitored/Passed
SB 2107 Electronic filing of employer unemployment contribution & wage reports:
Monitored/Passed
SB 2108 Eligibility for unemployment compensation benefits: **Monitored/Passed**

SB 2375 Dyed special fuels by cities: **Monitored/Passed**
SB 2385 Issuance of license plates: **Monitored/Failed**
SB 2429 HOS waiver rule changes: **Monitored/Passed**