

The Jerome N. Frank Legal Services Organization

YALE LAW SCHOOL

Testimony of Kirill Penteshin, Hunter Smith and Prof. Michael Wishnie

Jerome N. Frank Legal Services Organization, Yale Law School

In support of Senate Bill 419

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Senator Handley, Representative Sayers and Members of the Public Health Committee, my name is Hunter Smith, and this is Kirill Penteshin. We are students at Yale Law School, and members of the Jerome N. Frank Legal Services Organization.

We are here today to testify in support of Senate Bill 419, "An Act Prohibiting Smoking in Regulated Areas of Casinos." We will address the question of the compatibility of the proposed act with tribal sovereignty, which we have researched extensively.

We want to assure you that the Connecticut state legislature has full authority to amend the current Connecticut smoking ban in order to cover casinos.

We have looked at federal statutory law, federal case law, the compacts entered into by the state and the tribes and laws enacted by the tribes themselves and all these sources point to the authority of the General Assembly to enact the present smoking ban. The results of our research are summarized in a memo which we have distributed. We will give a brief overview now.

The Tribal-State Compacts

As you know the Mohegan and Mashantucket Pequot Indian Tribes are both parties to Tribal-State Gaming Compacts with the State of Connecticut.

In Section 14(b) of the Compacts, the tribes have consented to abide by state liquor law. As a result, casinos in Connecticut, even if on tribal land, need to receive a liquor license from the state in order to serve alcoholic beverages. This is recognized in the tribals laws of both the Mashantucket Pequot and Mohegan Tribes.

The proposed smoking ban does no more than impose a condition on the sale of alcoholic beverages at casinos. That condition is that the casinos must ban smoking. This is the same condition that the State has imposed on restaurants, cafes, taverns, universities, bars, railways and almost every other establishment wishing to serve alcohol in the State.

The State is well within its authority to impose this condition on the sale of alcohol in casinos, even if those casinos are located on tribal lands. This is all the more clear, given Section 14(a) of the Compacts which requires the tribes to adopt regulations with regard to "with regard to building, sanitary, and health standards" that are "no less rigorous than standards generally imposed by the laws and regulations of the State relating to public facilities."