

ROBERT MORGAN, Attorney General
Delivered by Millard Rich
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STATEMENT BY ROBERT MORGAN
ATTORNEY GENERAL OF NORTH CAROLINA
IN OPPOSITION TO H. R. 12184

"Chairman Rodin and members of the Subcommittee #1 of the House Judiciary Committee. I regret that I cannot appear before your Subcommittee in person on Thursday, September 28. I must appear instead before the North Carolina Advisory Budget Commission in Raleigh to present to the Commission the budget proposed by me for the North Carolina Department of Justice for fiscal years 1972-74. Otherwise, I assure you, I would appear in person before your Subcommittee because I have strong feelings about H. R. 12184. To demonstrate my concern about this proposed legislation, I am sending Mr. Rich, Assistant Attorney General, to appear and read this statement.

In my opinion as Attorney General of North Carolina, and personally, H. R. 12184 is an extremely unwise approach to solving the cigarette bootlegging problem of a few states, notably New York, New Jersey, Connecticut and Pennsylvania, which have on their own accord singled out cigarettes for what I believe to be an unreasonable and burdensome tax. I do not believe the Congress should make it a federal crime to violate a state law requiring a state tax to be paid on cigarettes on which the federal tax already has been paid. As I am sure you know, the federal tax is paid before

cigarettes leave the manufacturing plant.

Undoubtedly enforcement of this act by the Federal Government will require a tremendous amount of money and manpower. All the nation's taxpayers will be burdened with the expense of the enforcement of an act designed to benefit only a few states which have excessive cigarette taxes. This is unreasonable.

North Carolina has one of the highest state taxes on gasoline in the nation - 9 cents per gallon. Yet North Carolina is not asking Congress to require motorists who have stopped in North Carolina to have an invoice showing the North Carolina gasoline tax has been paid. I mention this only to demonstrate the absurd length to which this type of proposed legislation could reach. The same approach could just as illogically be used to collect state sales taxes.

In North Carolina the State Bureau of Investigation is administratively a part of the Office of Attorney General and, as Attorney General, I have an active role in law enforcement. Thus, I feel I have some knowledge of the problems of law enforcement.

In my opinion H. R. 12184 if enacted would be almost impossible to enforce. Since the proposed bill would make illegal the interstate transportation of contraband cigarettes, such cigarettes would have to be detected in most instances

on the public highways themselves in order to secure a conviction. It is an established fact that cigarettes are easily and usually transported by motor car and truck. Hundreds of thousands of motor vehicles move from North Carolina, Virginia and other low cigarette tax states north into Pennsylvania, New Jersey, New York, Connecticut and other states every day. It is not legally possible, due to federal and State constitutional protections against unreasonable searches and seizures, to stop even a small fraction of these vehicles. Even if it were legally permissible, to do so would create a traffic problem of gigantic proportions.

The March, 1972, Report of the State of New York Commission of Investigation candidly points out the extreme difficulty of enforcing anti-bootlegging laws. The Report shows that during the entire year 1970 only 248 apprehensions were made by 70 investigators. Only one jail sentence resulted from these apprehensions. One hundred twelve thousand cartons of cigarettes were seized in New York state in 1970 which sounds like a lot, but this figure, according to the report, only approximates the number of cartons of cigarettes illegally brought into New York state in a single day.

As I stated in a telegram I sent on January 20, 1972, to the New York State Investigation Commission, 'Discriminatory

and punitive cigarette taxes appear to be the root cause of the problem and there can be no solution until New York taxes are adjusted so that they will no longer provide temptation to crime by the underworld and inevitably to law breaking by otherwise law abiding citizens.' This statement from my telegram applies equally to the other high cigarette tax states.

Mr. Chairman and members of the Subcommittee. I am concerned about the indications that elements of organized crime have come to North Carolina and involved themselves in the bootlegging of cigarettes. North Carolina has and continues to stand ready to assist any other state in any manner consistent with North Carolina law in the enforcement of their State cigarette tax laws. I do not believe that anyone can say that we have been anything less than fully cooperative. However, I do stand opposed to this Bill which in effect encourages states to enact unreasonable tax legislation and then to turn to the Federal Government for help in enforcing it."