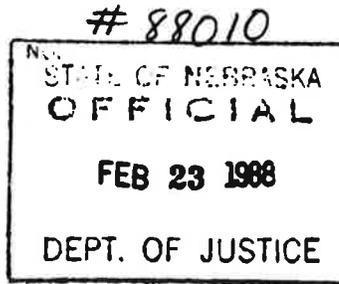


DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509

ROBERT M. SPIRE
Attorney General
A. EUGENE CRUMP
Deputy Attorney General



DATE: February 17, 1988

SUBJECT: Limitation on Distribution of Smokeless Tobacco Products -- LB 861 (1988)

REQUESTED BY: Senator Arlene Nelson, 35th District

WRITTEN BY: Robert M. Spire, Attorney General; Linda L. Willard, Assistant Attorney General

You have requested an opinion as to whether the limitations on distribution of smokeless tobacco products as set out in LB 861 (1988) are in violation of the Commerce Clause or First Amendment of the United States Constitution or in violation of Article III, Section 18 of the Constitution of the State of Nebraska. In our opinion LB 861, as amended, does not violate any of these authorities.

We have reviewed LB 861 with the amendments adopted by the Judiciary Committee. There is nothing in the bill, as amended, that is in conflict with the Commerce Clause or First Amendment of the United States Constitution. Nor is the bill in conflict

L. Jay Bartel
Martel J. Bundy
Janie C. Castaneda
Eleine A. Catlin
Dale A. Comer
Laura L. Freppel

Lynne R. Fritz
Yvonne E. Gates
Royce N. Harper
William L. Howland
Marilyn B. Hutchinson

Mei Kammerlohr
Charles E. Lowe
Lisa D. Martin-Price
Steven J. Moeller
Harold I. Mosher

Fredrick F. Neid
Bernard L. Pickett
Marie C. Pawol
Jill Gradwohl Schroeder
LeRoy W. Sievers

James H. Spears
Mark D. Starr
John R. Thompson
Susan M. Ugai
Linda L. Willard

Senator Arlene Nelson
February 17, 1988
Page -2-

with Article III, Section 18 of the Constitution of the State of Nebraska. Additionally, similar statutes have been successfully adopted in other states.

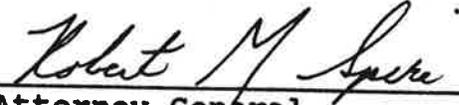
Sincerely,

ROBERT M. SPIRE
Attorney General


Linda L. Willard
Assistant Attorney General

cc: Patrick J. O'Donnell
Clerk of the Legislature

APPROVED BY:


Attorney General

28-01-6