

## **Written Statement Submitted on Behalf of Seneca Direct LLC Concerning HB 2128**

I am a Mohawk Native American and the sole owner of Seneca Direct, LLC. I submit this written statement on behalf of Seneca Direct in opposition to HB 2128.

Seneca Direct is an Oregon company, which I founded in 2013. I began my career in 2006, working as a marketing representative for the Seneca brand of products in traditionally Native markets throughout the United States. After seven years, and traveling extensively throughout the U.S., I made the decision to start my own business in what became the headquarters for Seneca Direct in Eugene, Oregon.

I am a single mother who has dedicated days, nights, and weekends over the last 10 years to my business, sometimes sacrificing time with my daughter so that the business could survive and continue. From humble beginnings where I was the only worker, Seneca Direct now employs 30 people. Over the years, and developing the market for Seneca products in Oregon and surrounding areas, I have learned extensively about the tobacco market in Oregon and beyond. I witness and experience firsthand each day which manufacturers have products in the market, and what these manufacturers do to sell their products on a daily and quarterly basis.

I am very familiar with Oregon's Escrow Statute, and the compliance it requires from Grand River Enterprises (the manufacturer of the Seneca cigarettes we distribute). I understand that the Escrow Statute currently requires Grand River to deposit approximately \$8.40 per carton for each carton of Grand River cigarettes that Seneca Direct sells in Oregon. I also know that Oregon law requires Grand River to post a bond to secure its escrow obligations in Oregon that matches dollar-for-dollar its escrow payments. Thus, for example, if Seneca Direct sells 100 cartons of Grand River's products in Oregon between January – March 2023, Grand River must deposit \$840.00 into an escrow account that is held for 25 years on account of those sales; and Grand River must also post a bond in the amount of \$840.00 to continue to have its cigarettes sold in Oregon beyond March 31, 2023. My understanding is Grand River has posted a bond of nearly \$1 million thus far to secure its future quarterly escrow payments.

Unlike Grand River, those companies that joined the MSA make certain settlement payments to the MSA States, but they do not make any escrow payments and do not have any bonding requirement under the Escrow Statute. More importantly, I am very familiar with the marketing and pricing competition of a certain group of MSA manufacturers that are commonly referred to as "Exempt MSA Companies." Grand River's products compete extensively with these Exempt MSA Companies, and my daily, monthly, quarterly, and annual business depends critically on my ability to compete with the marketing and pricing of these Exempt MSA Companies. I see their prices in the market every day, and I witness firsthand the competitive advantage they have

to price their products below the prices at which we sell our Seneca products. Through Seneca Direct's dedication, goodwill, and plain hard work, our minority-owned and disadvantaged company has been able to survive in the market just enough to stay in business.

Having worked with and modeled our business around the Escrow Statute which has been in place for over 20 years, HB 2128 now proposes to change the Escrow Statute in a way that will upset and materially affect the competitive balance that exists and has existed in the Oregon market. HB 2128 will keep the escrow and bonding requirements in place, but also impose an assessment on Grand River's products much like a tax. The effect of the assessment will be to raise the cost and price of Grand River's products in the market, to levels at which Seneca Direct cannot compete with the Exempt MSA Companies. I know of no reason or basis to impose this increased regulatory cost on the products we distribute, when our principal competitors make no equivalent or even remotely comparable payments to or for the benefit of the MSA States, including Oregon.

After having been told for 10 years that Oregon law required Seneca Direct and its products to comply with a fixed set of rules and requirements, and having forged and built our business in reliance on those rules and requirements, we do not see any basis to change those rules and requirements – particularly in a manner that discriminates in favor of a select few and privileged companies that stand to further benefit from an already discriminatory and biased regulatory regime. HB 2128's unfairness and anticompetitive effects will shut the door on competition from smaller and Native-owned businesses such as Grand River and Seneca Direct, and likely shut Seneca Direct's doors altogether. For these reasons, we respectfully ask the Legislature to reject HB 2128 in every respect.