

Amendments to House Bill No. 643
1st Reading Copy

Requested by Representative Don Roberts

For the House Human Services Committee

Prepared by Susan Byorth Fox
March 11, 2005 (2:22pm)

1. Title, line 10.

Following: "SUBDIVISION"

Insert: "AFTER SEPTEMBER 30, 2009"

Following: "SUBDIVISION;"

Insert: "ESTABLISHING PENALTIES;"

2. Title, line 11.

Following: "MCA;"

Strike: "AND"

3. Title, line 12.

Following: "MCA"

Insert: "; AND PROVIDING A TERMINATION DATE"

4. Page 1, line 13.

Insert: "WHEREAS, numerous studies have found that tobacco smoke is a major contributor to indoor air pollution and that breathing secondhand smoke, also known as environmental tobacco smoke, is a cause of disease in healthy nonsmokers, including diseases such as heart disease, stroke, respiratory disease, and lung cancer; and

WHEREAS, the National Cancer Institute determined in 1999 that secondhand smoke is responsible for the early deaths of up to 65,000 Americans annually; and

WHEREAS, The National Toxicology Program of the U.S. Department of Health and Human Services has listed secondhand smoke as a known carcinogen; and

WHEREAS, a study of hospital admissions for acute myocardial infarction in Helena, Montana, before, during, and after a local ordinance eliminating smoking in workplaces and public places was in effect, has determined that laws to enforce smoke-free workplaces and public places may be associated with a reduction in morbidity from heart disease; and

WHEREAS, the U.S. Surgeon General has determined that the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of

nonsmokers to secondhand smoke; and

WHEREAS, the Environmental Protection Agency has determined, as of the introduction date of this bill, that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation and that air cleaners, which are only capable of filtering the particulate matter and odors in smoke, do not eliminate the known toxins in secondhand smoke; and

WHEREAS, it has been determined by the Centers for Disease Control and Prevention that the risk of acute myocardial infarction and coronary heart disease associated with exposure to tobacco smoke is nonlinear at low doses, increasing rapidly with relatively small doses, such as those received from secondhand smoke or actively smoking one or two cigarettes a day; and

WHEREAS, the Centers for Disease Control and Prevention warns that all patients at increased risk of coronary heart disease or with known coronary artery disease should avoid all indoor environments that permit smoking; and

WHEREAS, numerous economic analyses examining restaurant and hotel receipts and controlling for economic variables have shown either no difference or a positive economic impact after enactment of laws requiring workplaces to be smoke-free; and

WHEREAS, smoking is a potential cause of fires, and cigarette and cigar burns and ash stains on merchandise and fixtures cause economic damage to businesses; and

WHEREAS, creation of smoke-free workplaces is sound economic policy and provides the maximum level of employee health and safety."

5. Page 2.

Following: line 2.

Insert: "(4) A violation of this section is subject to the penalties provided in [section 8]."

Renumber: subsequent subsection

6. Page 2, line 18 through page 4, line 1.

Strike: "(1)" on page 2, line 18 through "Accordingly, the" on page 4, line 1

Insert: "The"

7. Page 4, line 2.

Strike: "(a)"

Insert: "(1)"

Renumber: subsequent subsections

8. Page 4.

Following: line 8

Insert: "(1) "Bar" means an establishment with ^{a license} ~~an all beverages~~ license issued pursuant to Title 16, chapter 4, that is devoted to serving alcoholic beverages for consumption by guests or patrons on the premises and in which the serving of food is only incidental to the service of alcoholic beverages or gambling operations, including but not limited to taverns, night clubs, cocktail lounges, and casinos."
Renumber: subsequent subsections

9. Page 4, line 21.
Strike: "and taverns"

10. Page 4.
Following: line 26
Insert: "(5) "Incidental to the service of alcoholic beverages or gambling operations" means that at least 60% of the business's annual gross income comes from the sale of alcoholic beverages or gambling receipts, or both."
Renumber: subsequent subsections

11. Page 5.
Following: line 24
Insert: "(4) The proprietor or manager of a business licensed under 23-5-611(1)(a) or (1)(c) may not allow any member of the public who is under 18 years of age to be present in any area of the establishment in which smoking is permitted ~~and gambling devices are present.~~"
Renumber: subsequent subsections

12. Page 5.
Following: line 26
Insert: "(a) until September 30, 2009, bars, provided that smoke from the bar does not infiltrate into areas where smoking is prohibited under this section;"
Renumber: subsequent subsections

13. Page 6, line 6.
Strike: "20%"
Insert: "35%"
Following: ";"
Insert: "and"

14. Page 6, line 7 through line 12.

Strike: subsections (e) and (f) in their entirety

Insert: "(f) any place in which American Indians practice their religion in accordance with the American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a."

15. Page 7, line 7.

Strike: "not"

16. Page 7, line 8.

Strike: "do not"

17. Page 7, line 11.

Insert: "NEW SECTION. **Section 8. Penalties.** (1) It is unlawful for a person to smoke in any area where smoking is prohibited under 20-1-220 or 50-40-104. A person who violates 20-1-220 or 50-40-104 is guilty of a misdemeanor and shall be subject to a fine of not less than \$25 or more than \$100.

(2) A person who owns, manages, operates, or otherwise controls a public place or place of employment and who fails to comply with the provisions of Title 50, chapter 40, is guilty of a misdemeanor and shall be punished as follows:

(a) a warning for the first violation;

(b) a written reprimand for a second violation; and

(c) within any 3-year period, a fine of:

(i) \$100 for a third violation;

(ii) \$200 for a fourth violation; and

(iii) \$500 for a fifth or subsequent violation.

(3) Penalties imposed under this section may not be considered by the department of revenue for the purposes of 16-4-401."

Renumber: subsequent sections

18. Page 7, line 22.

Strike: "[Sections 7 and 8]"

Insert: "[Sections 7 through 9]"

19. Page 7, line 24.

Strike: "[sections 7 and 8]"

Insert: "[sections 7 through 9]"

20. Page 7, line 26 through line 28.

Strike: section 12 in its entirety

Insert: "NEW SECTION. **Section 13. Nonseverability.** It is the intent of the legislature that each part of [this act] is

essentially dependent upon every other part, and if one part is held unconstitutional or invalid, all other parts are invalid."

Insert: "NEW SECTION. **Section 14. {standard} Termination.**
[Section 7] terminates September 30, 2009."

- END -

