

HOUSE OF REPRESENTATIVES
Roll Call
HUMAN SERVICES COMMITTEE

DATE 3-16-05

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
REP. ARLENE BECKER, CHAIR	X		
REP. TOM FACEY, VICE CHAIR	X		
REP. DON ROBERTS, VICE CHAIR	X		
REP. MARY CAFERRO	X		
REP. EMELIE EATON	X		
REP. GORDON HENDRICK	X		
REP. TERESA HENRY	X		
REP. WILLIAM JONES	X		
REP. DAVE McALPIN	X		
REP. TOM McGILLVRAY	X		
REP. MIKE MILBURN	X		
REP. ART NOONAN			X
REP. RON STOKER	X		
REP. PAT WAGMAN	X		
REP. BILL WARDEN	X		
REP. JONATHAN WINDY BOY	X		



HOUSE STANDING COMMITTEE REPORT

March 17, 2005

Page 1 of 5

Mr. Speaker:

We, your committee on **Human Services** recommend that **House Bill 643** (first reading copy -- white) do pass as amended.

Signed: _____

A handwritten signature in cursive script that reads "Arlene Becker".

Representative Arlene Becker, Chair

And, that such amendments read:

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

Committee Vote:

Yes 13, No 3.

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3/17/05
jhw

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, line 4.

Strike: "guarantee"

Insert: "recognize"

9. Page 4.

Following: line 8

Insert: "(1) "Bar" means an establishment with a 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

10. Page 4, line 21.

Strike: "and taverns"

11. 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

12. 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."

Renumber: subsequent subsections

13. 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

14. Page 6, line 6.

Strike: "20%"

Insert: "35%"

Following: "i;"

Insert: "and"

15. Page 6, line 7 through line 12.

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

Insert: "(f) a site that is being used in connection with the practice of cultural activities by American Indians that is in accordance with the American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a."

16. Page 7, line 7.

Strike: "not"

17. Page 7, line 8.

Strike: "do not"

18. 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

19. Page 7, line 22.

Strike: "[Sections 7 and 8]"

Insert: "[Sections 7 through 9]"

20. Page 7, line 24.

Strike: "[sections 7 and 8]"

Insert: "[sections 7 through 9]"

21. 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. **Termination.** [Section 7] terminates September 30, 2009."

- END -

HOUSE OF REPRESENTATIVES
Roll Call Vote
HUMAN SERVICES COMMITTEE

DATE 3-16-05 BILL NO HB643 MOTION NO. 1

MOTION: _____

main group of amendments
with 2 modifications +
Windy-Boys amendment

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. TOM FACEY, VICE CHAIR	X		
REP. DON ROBERTS, VICE CHAIR	X		
REP. MARY CAFERRO		X	
REP. EMELIE EATON	X		
REP. GORDON HENDRICK	X		
REP. TERESA HENRY	X		
REP. WILLIAM JONES	X		
REP. DAVE McALPIN	X		
REP. TOM McGILLVRAY	X		
REP. MIKE MILBURN		X	
REP. ART NOONAN	X		X
REP. RON STOKER		X	
REP. PAT WAGMAN	X		
REP. BILL WARDEN	X		X
REP. JONATHAN WINDY BOY	X		
REP. ARLENE BECKER, CHAIR	X		
	13	3	

HOUSE OF REPRESENTATIVES
Roll Call Vote
HUMAN SERVICES COMMITTEE

DATE 3-16-05 BILL NO HB 643 MOTION NO. 2

MOTION: _____
 _____ *Whereas to be removed*
 _____ *included*

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. TOM FACEY, VICE CHAIR	X		
REP. DON ROBERTS, VICE CHAIR	X		
REP. MARY CAFERRO	X		
REP. EMELIE EATON	X		
REP. GORDON HENDRICK		X	
REP. TERESA HENRY	X		
REP. WILLIAM JONES	X		
REP. DAVE McALPIN	X		
REP. TOM McGILLVRAY		X	
REP. MIKE MILBURN		X	
REP. ART NOONAN	X		X
REP. RON STOKER		X	
REP. PAT WAGMAN		X	
REP. BILL WARDEN		X	X
REP. JONATHAN WINDY BOY	X		
REP. ARLENE BECKER, CHAIR		X	
	9	7	

HOUSE OF REPRESENTATIVES
Roll Call Vote
HUMAN SERVICES COMMITTEE

DATE 3-16-05 BILL NO HB 643 MOTION NO. ~~1~~ 3
 MOTION: _____

D R A A

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	<u>If Proxy Vote, check here & include signed Proxy Form with minutes</u>
REP. TOM FACEY, VICE CHAIR	X		
REP. DON ROBERTS, VICE CHAIR	X		
REP. MARY CAFERRO		X	
REP. EMELIE EATON	X		
REP. GORDON HENDRICK	X		
REP. TERESA HENRY	X		
REP. WILLIAM JONES	X		
REP. DAVE McALPIN	X		
REP. TOM MCGILLVRAY	X		
REP. MIKE MILBURN		X	
REP. ART NOONAN	X		
REP. RON STOKER		X	
REP. PAT WAGMAN	X		
REP. BILL WARDEN	X		X
REP. JONATHAN WINDY BOY	X		
REP. ARLENE BECKER, CHAIR	X		
	13	3	

COMMITTEE PROXY

DATE: 3/2/05

I request to be excused from the H. Herman Services

Committee because of other commitments. I desire to leave my proxy vote with:
Don Nelson

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT AYE NO SENATE BILL/AMENDMENT AYE NO

<u>3-8-05</u> <u>14B 643</u>	<u>AB 740</u>	<u>Y</u>	
	<u>Amd - 643 body</u>	<u>Y</u>	
<u>14B 643</u>	<u>Amd - Where as</u>		<u>N</u>
<u>3-16-05</u>	<u>Amd - Section 2</u>	<u>Y</u>	
<u>643</u>	<u>Bill on Amd</u>	<u>Y</u>	

Rep. Sen. Bill Woods
 (Signature)

COMMITTEE PROXY

DATE 3-16-05

I request to be excused from the Human Services
 Committee meeting this date because of other commitments. I desire to leave my proxy vote
 with Rep. Lacey

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

HOUSE BILL/ AMENDMENT AYE NO

SENATE BILL/AMENDMENT AYE NO

HB 643 #1	X	
HB 643 #2	X	

Rep. 

(Signature)

Michael J. Noonan

**Montana House of Representatives
Visitors Register**

HUMAN SERVICES COMMITTEE

Date 3-16-05

Bill No. SB-21 Sponsor(s) Sen D. Grimes

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
Mike Schweitzer MD	RMHN	X		
Barbara Rant	Mt Chamber	X		
MICHAEL BROWN, MD	RMHN	X		
Roger Williams Bollinger	UMMS			
Al Smith	MTLA	X		
Jani McCall	OBC	X		
Mina Jansica	Int. Orthopedic Soc Doctors Co.	✓		
Leo BERRY	UM/A	✓		
TOM Elzevich	Holy Rosary, St. James St. James	✓		
MARK TAYLOR	MHA	✓		
JOE MATZURK	BCBSMT	✓		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.
/s/HumServVisitorReg.sample2003

**Montana House of Representatives
Visitors Register**

HUMAN SERVICES COMMITTEE

Date 3-16-05

Bill No. SB-322 Sponsor(s) Sen K. Gillan

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Name and Address	Representing	Support	Oppose	Inf.
Mike Schuster MD	RMHN	X		
Barbara Ranf	mt Chamber	X		
MIKE BROWN, MD	RMHN	X		
Roger Williams Billings	MMA	X		
Al Smith	MTLA	X		
Jani McCall	ABC	X		
Mina Jamian	Mt. Othopedic Soc.	✓		
Mina Jamian	Doctors Co	✓		
Tom Ebbery	SV, Holy Cross, Wheaton	✓		
Leo Berry	UMIA	✓		
Joe Mauerer	BCBS MT	✓		
MARK TAYLOR	MHA	✓		
Jeff Spence	PHHS-DOS			

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

**Montana House of Representatives
Visitors Register**

HUMAN SERVICES COMMITTEE

Date 3-16-05

Bill No. SB-479 Sponsor(s) Sen G. Lind

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
<i>Mike Schwetza MD</i>	<i>RMAN</i>	<i>X</i>		
<i>MICHAEL BROWN MD</i>	<i>MT. SOCIETY PATHOLOGISTS</i>	<i>X</i>		
<i>Ben Blend M.D.</i>	<i>MT. SOCIETY PATHOLOGIST</i>	<i>X</i>		
<i>Roger Williams MD</i>	<i>MMA</i>			
<i>Billings, MT</i>				
<i>Tom Egevy</i>	<i>MT Soc Pathologists</i>	<i>X</i>		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.
/s/HumServVisitorReg.sample2003