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Date 4-5-05  
HB 643



April 6, 2005

Honorable Michael Wheat, Chair  
Judiciary Committee  
Montana Senate  
PO Box 200500  
Helena, MT 59620-0500

Senator Wheat and Members of the Committee:

For the record, my name is Kristin Page Nei. I am here today speaking on behalf of the American Cancer Society in opposition to HB643 as amended in the House.

The American Cancer Society is the nationwide community based voluntary health organization dedicated to eliminating cancer as a major health problem by preventing cancer, saving lives and diminishing suffering from cancer, through research, education, advocacy, and service.

The American Cancer Society set ambitious goals for significantly reducing the rates of cancer incidence and mortality along with measurably improving the quality of life for all people with cancer.

Thirty percent of all cancer related deaths can be attributed to commercial tobacco use, so we support an ambitious agenda to reduce the suffering and preventable deaths accompanying the use of tobacco.

The American Cancer Society supports comprehensive clean indoor air policies, frequently increasing the price of tobacco products and adequately funding a tobacco disease prevention program as our best ways to significantly reduce death and disease caused by tobacco.

We want to publicly thank Representative Dowell for his leadership in the legislature and his willingness to support efforts to improve the health of Montana's citizens with strong clean indoor air legislation. His efforts on behalf of the original HB 643 were much appreciated and we nearly succeeded in the House Committee, overcoming very difficult obstacles.

We regret, however, that we are unable to support the current proposed version of HB 643. Although there may be certain short-term benefits we are sincerely concerned about two specific provisions in the amended bill.

First, as a national organization we have long opposed statewide efforts which preempt local opportunities to improve the health of citizens. Preemption limits our ability to help communities more comprehensively protect themselves and their employees from the dangers of secondhand smoke. Some communities may feel strongly that they need further protections, and the current bill would prevent them from addressing their concerns.

Second, the non-severability clause will allow the whole act to be overturned if one part is found to be invalid. With merely one phrase of the legislation challenged in court and found to be a problem, all our efforts focused on protecting the health of Montana's citizens could be for nothing. We are concerned that, if any part of the legislation is found to be invalid at any time during the period between now and September 30, 2009 we will have lost opportunities to improve the health of Montanans in their local communities with no appreciable gain.

We recommend the committee consider including a phase in of secondhand smoke protections, but which eliminated the non-severability clause and allowed us to work with those local communities interested in further protecting their citizens from secondhand smoke.

We believe these options will provide for legislation that protects the health of all Montanans while allowing a reasonable adjustment period for other parties involved.

Thank you for your consideration of this matter.

Sincerely,



Kristin Page Nei  
Montana Director of Government Relations  
American Cancer Society, Great West Division