

SENATE BILL NO. 205

INTRODUCED BY J. TREBAS, K. ZOLNIKOV, M. HOPKINS, C. FRIEDEL, D. EMRICH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CLEAN INDOOR AIR ACT TO EXEMPT CERTAIN PRIVATE ESTABLISHMENTS; REQUIRING APPROVAL BY A LOCAL COUNTY HEALTH DEPARTMENT; PROHIBITING SMOKING ON THE PREMISES DURING THE HOURS WHEN PEOPLE UNDER 18 YEARS OF AGE ARE PERMITTED ON THE PROPERTY; REQUIRING NOTIFICATION THAT AN ESTABLISHMENT ALLOWS SMOKING ON THE PREMISES; AND AMENDING SECTIONS 50-40-103 AND 50-40-104, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Indoor smoking permitted -- licensing by local health department.

(1) A private establishment as defined in 50-40-103 may allow indoor smoking if the private establishment:

- (a) has been approved by a local county health department to be licensed as a smoking establishment;
- (b) does not allow smoking on the premises during the hours when people under 18 years of age are permitted on the property; and
- (c) clearly indicates to the public when smoking is allowed on the premises on the outside of the building.

(2) A local health department shall issue a permit to a private establishment if the private establishment meets the requirements of subsection (1). A local health department may suspend or revoke a permit if a private establishment knowingly allows people under 18 years of age to remain on the premises while indoor smoking occurs.

Section 2. Section 50-40-103, MCA, is amended to read:

"50-40-103. Definitions. As used in this part, the following definitions apply:

- (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

1 serving of food is only incidental to the service of alcoholic beverages or gambling operations. The term
2 includes but is not limited to taverns, night clubs, cocktail lounges, and casinos.

3 (2) "Department" means the department of public health and human services provided for in 2-15-
4 2201.

5 (3) "Enclosed public place" means an indoor area, room, or vehicle that the general public is
6 allowed to enter or that serves as a place of work, including but not limited to the following:

7 (a) restaurants;

8 (b) stores;

9 (c) public and private office buildings and offices, including all office buildings and offices of
10 political subdivisions, as provided for in 50-40-201, and state government;

11 (d) trains, buses, and other forms of public transportation;

12 (e) health care facilities;

13 (f) auditoriums, arenas, and assembly facilities;

14 (g) meeting rooms open to the public;

15 (h) bars;

16 (i) community college facilities;

17 (j) facilities of the Montana university system; and

18 (k) public schools, as provided for in 20-1-220 and 50-40-104.

19 (4) "Establishment" means an enterprise under one roof that serves the public and for which a
20 single person, agency, corporation, or legal entity is responsible.

21 (5) "Incidental to the service of alcoholic beverages or gambling operations" means that at least
22 60% of the business's annual gross income comes from the sale of alcoholic beverages or gambling receipts,
23 or both.

24 (6) "Person" means an individual, partnership, corporation, association, political subdivision, or
25 other entity.

26 (7) "Place of work" means an enclosed room where one or more individuals work.

27 (8) "Private establishment" means an enclosed room that is open to the public where one or more
28 individuals work that meets the exemption requirements of [section 1].

1 ~~(8)~~(9) "Smoking" or "to smoke" includes the act of lighting, smoking, or carrying a lighted cigar,
2 cigarette, pipe, or any smokable product and includes the use of marijuana."

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4 **Section 3.** Section 50-40-104, MCA, is amended to read:

5 **"50-40-104. Smoking in enclosed public places prohibited -- notice to public -- places where**
6 **prohibition inapplicable.** (1) Except as otherwise provided in this section, smoking in an enclosed public place
7 is prohibited.

8 (2) The proprietor or manager of an establishment containing enclosed public places shall post a
9 sign in a conspicuous place at all public entrances to the establishment stating, in a manner that can be easily
10 read and understood, that smoking in the enclosed public place is prohibited.

11 (3) The proprietor or manager of an intrastate bus that is not chartered shall prohibit smoking in all
12 parts of the bus.

13 (4) The prohibition in subsection (1) does not apply to the following places, whether or not the
14 public is allowed access to those places:

15 (a) a private residence unless it is used for any of the following purposes, in which case the
16 prohibition in subsection (1) applies:

17 (i) a family day-care home or group day-care home, as defined in 52-2-703 and licensed pursuant
18 to Title 52, chapter 2, part 7;

19 (ii) an adult foster care home, as defined in 50-5-101 and licensed pursuant to Title 50, chapter 5;
20 or

21 (iii) a health care facility, as defined in 50-5-101 and licensed pursuant to Title 50, chapter 5;

22 (b) a private motor vehicle;

23 (c) school property in which smoking is allowed pursuant to the exception in 20-1-220;

24 (d) a hotel or motel room designated as a smoking room and rented to a guest; however, not more
25 than 35% of the rooms available to rent to guests may be designated as smoking rooms; ~~and~~

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

28 (f) a private establishment as defined in 50-40-103 that meets the exemption requirements of

1 [section 1]."

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3 NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an
4 integral part of Title 50, chapter 40, part 1, and the provisions of Title 50, chapter 40, part 1, apply to [section 1].

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