

HOUSE BILL NO. 413

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A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE USE OF A VAPOR PRODUCT OR AN
ALTERNATIVE NICOTINE PRODUCT AS WELL AS ALL TOBACCO PRODUCTS IN A PUBLIC SCHOOL
BUILDING OR ON PUBLIC SCHOOL PROPERTY; PROVIDING DEFINITIONS; ~~AND~~ AMENDING ~~SECTION~~
SECTIONS 20-1-220 AND 50-40-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 20-1-220, MCA, is amended to read:

"20-1-220. Use of tobacco ~~product~~ products in public school building or on public school property prohibited. (1) An individual may not use a tobacco product, vapor product, or alternative nicotine product in a public school building or on public school property.

~~(2) Subsection (1) does not apply to the use of a tobacco product, vapor product, or alternative nicotine product in a classroom or on other school property as part of a lecture, demonstration, or educational forum sanctioned by a school administrator or faculty member concerning the risks associated with use of a tobacco product, vapor product, or alternative nicotine product.~~

~~(3)(2)~~ The principal of an elementary or secondary school, or the principal's designee, may enforce this section.

~~(4)(3)~~ A violation of this section is subject to the penalties provided in 50-40-115.

~~(5)(4)~~ For the purposes of this section, the following definitions apply:

(a) "Alternative nicotine product" means a manufactured noncombustible product that contains nicotine derived from tobacco and that is intended for human consumption by being chewed, absorbed, dissolved, or ingested by any other means.

~~(a)~~(b) "Public school building" or "public school property":

(i) means public land, fixtures, buildings, or other property owned or occupied by an institution for the teaching of minor children that is established and maintained under the laws of the state of Montana at public

1 expense; and

2 (ii) includes school playgrounds, school steps, parking lots, administration buildings, athletic facilities,
3 gymnasiums, locker rooms, and school buses.

4 ~~(b)~~(c) "Tobacco product" means a substance intended for human consumption that contains tobacco,
5 including cigarettes, cigars, snuff, smoking tobacco, and smokeless tobacco.

6 (d) "Vapor product" means a noncombustible product that may contain nicotine and that uses a heating
7 element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape
8 or size, to produce vapor from a solution or other substance. The term includes:

9 (i) an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or
10 device; and

11 (ii) a vapor cartridge or other container in a solution or other form that is intended to be used with or in
12 an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product and device."

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14 **SECTION 2. SECTION 50-40-104, MCA, IS AMENDED TO READ:**

15 **"50-40-104. Smoking in enclosed public places prohibited -- notice to public -- places where**
16 **prohibition inapplicable.** (1) Except as otherwise provided in this section, smoking in an enclosed public place
17 is prohibited.

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

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

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

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

27 (i) a family day-care home or group day-care home, as defined in 52-2-703 and licensed pursuant to Title
28 52, chapter 2, part 7;

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

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

- 1 (b) a private motor vehicle;
- 2 ~~(c) school property in which smoking is allowed pursuant to the exception in 20-1-220;~~
- 3 ~~(d)~~(c) a hotel or motel room designated as a smoking room and rented to a guest; however, not more
- 4 than 35% of the rooms available to rent to guests may be designated as smoking rooms; and
- 5 ~~(e)~~(d) a site that is being used in connection with the practice of cultural activities by American Indians
- 6 that is in accordance with the American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a."

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8 NEW SECTION. SECTION 3. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

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