

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~~ SECTION 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.~~

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

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

~~(5)(4)(5)~~ 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

1 ingested by any other means.

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

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

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

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

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

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

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

17

18 ~~SECTION 2. SECTION 50-40-104, MCA, IS AMENDED TO READ:~~

19 ~~"50-40-104. Smoking in enclosed public places prohibited -- notice to public -- places where~~  
20 ~~prohibition inapplicable. (1) Except as otherwise provided in this section, smoking in an enclosed public place~~  
21 ~~is prohibited:~~

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

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

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

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

- 1 ~~—— (i) a family day-care home or group day-care home, as defined in 52-2-703 and licensed pursuant to Title~~
- 2 ~~52, chapter 2, part 7;~~
- 3 ~~—— (ii) an adult foster care home, as defined in 50-5-101 and licensed pursuant to Title 50, chapter 5; or~~
- 4 ~~—— (iii) a health care facility, as defined in 50-5-101 and licensed pursuant to Title 50, chapter 5;~~
- 5 ~~—— (b) a private motor vehicle;~~
- 6 ~~—— (c) school property in which smoking is allowed pursuant to the exception in 20-1-220;~~
- 7 ~~—— (d)(c) a hotel or motel room designated as a smoking room and rented to a guest; however, not more~~
- 8 ~~than 35% of the rooms available to rent to guests may be designated as smoking rooms; and~~
- 9 ~~—— (e)(d) a site that is being used in connection with the practice of cultural activities by American Indians~~
- 10 ~~that is in accordance with the American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a."~~

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12 NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

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