

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) (A) 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.

(B) SUBSECTION (1) DOES NOT APPLY TO THE USE OF A SMOKING CESSATION PRODUCT BY AN EMPLOYEE.

~~(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:



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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 ~~—— (i) a family day-care home or group day-care home, as defined in 52-2-703 and licensed pursuant to Title~~
4 ~~52, chapter 2, part 7;~~

5 ~~—— (ii) an adult foster care home, as defined in 50-5-101 and licensed pursuant to Title 50, chapter 5; or~~
6 ~~—— (iii) a health care facility, as defined in 50-5-101 and licensed pursuant to Title 50, chapter 5;~~

7 ~~—— (b) a private motor vehicle;~~

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

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

11 ~~—— (e)(d) a site that is being used in connection with the practice of cultural activities by American Indians~~
12 ~~that is in accordance with the American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a."~~

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

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