

OFFICE OF THE GOVERNOR
STATE OF MONTANA

GREG GIANFORTE
GOVERNOR



KRISTEN JURAS
LT. GOVERNOR

April 29, 2021

The Honorable Wylie Galt
Speaker of the House
State Capitol
Helena, MT 59601

The Honorable Mark Blasdel
President of the Senate
State Capitol
Helena, MT 59601

Dear Speaker Galt and President Blasdel:

The last year has brought serious challenges to Montanans, and we have responded as Montanans do, neighbors helping neighbors. No Montanan has been untouched by the pandemic, whether risks to their health or threats to their livelihood with government-mandated shutdowns and regulations.

Facing uncharted territory with a new virus we didn't understand, our local health officials responded as best they could, particularly in the early days of the pandemic when there was great uncertainty. They have promoted the safety, health, and well-being of residents in our communities. Because of their success, many operated largely anonymously until the pandemic struck. I am grateful to them for their efforts before and during this pandemic.

There are, however, isolated examples of officials who have overreached. We saw it in the Flathead, after the previous administration sought to shut down local businesses for allegedly violating state mask mandates. The judge in the case ruled against the state, saying it didn't have enough evidence and that the businesses made reasonable efforts. The previous administration overstepped its bounds. That's why my administration sought to end the litigation and reached settlement agreements with these businesses.

Like you, I understand the frustration small business owners have in response to isolated instances like this. Just as my administration settled with the businesses in the Flathead, the Legislature has responded with a series of bills that put guardrails on the response of local public health officials. I signed House Bill 121 into law, because it provides greater accountability by empowering local elected officials with greater oversight of local public health actions.

Another measure, House Bill 257, has the best intentions to address overreach as we have seen in a few isolated cases, and I want to fully support it. As drafted I cannot support it. However, with amendments that protect taxpayers from costly lawsuits and clarify that provisions of the bill do not restrict public health officials from enforcing all lawfully adopted regulations, directives, and orders, I will support it and sign it into law.

Therefore, in accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments House Bill 257: “AN ACT GENERALLY REVISING LAWS RELATED TO PROHIBITING ACTIONS THAT IMPEDE A PRIVATE BUSINESS’S ABILITY TO CONDUCT BUSINESS; PROHIBITING CERTAIN TYPES OF LOCAL GOVERNMENT ORDINANCES AND RESOLUTIONS; PROHIBITING AN EMERGENCY PLAN OR PROGRAM THAT RESTRICTS THE ABILITY OF A PRIVATE BUSINESS TO CONDUCT BUSINESS; PROHIBITING A LOCAL BOARD OF HEALTH AND LOCAL HEALTH OFFICER FROM CERTAIN ACTIONS THAT RESTRICT THE ABILITY OF A PRIVATE BUSINESS TO CONDUCT BUSINESS; AMENDING SECTIONS 7-1-111, 7-1-2103, 7-1-4124, 7-5-103, 7-5-121, 7-5-4201, 10-3-301, 50-2-116, 50-2-118, 50-2-123, AND 50-2-124, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.”

HB 257 is worthwhile legislation that would gain my full support if amended. Specifically, I believe that the bill must be adjusted to better reflect the sponsor’s true intent and address valid concerns regarding its implementation. After reaching an agreement in principle late yesterday with the bill’s sponsor, my team and I worked diligently through the night to strengthen and improve the legislation.

It’s critical that we continue to safely reopen Montana and get back to a normal life. Despite Montanans’ resiliency in the face of adversity, the pandemic has burdened our people, health care systems, and businesses. At the outset of the pandemic, our local public health officials reacted swiftly to safeguard Montana’s communities. I’m grateful for their dedicated response and recognize that many local public health decisions have been instrumental to our successful fight against the virus.

It’s also critical that we avoid fundamentally reshaping Montana’s local public health system as a consequence of actions taken in response to the current pandemic – but rather consider proposals that address the ongoing issues created by “one size fits all” regulations, orders, directives, or mandates while allowing local public health officials to do their jobs. Although it may not be evidenced in the sponsor’s bill as currently drafted, I am confident that Representative Hinkle shares this intent for HB 257.

Accordingly, my amendments clarify that provisions of HB 257 do not restrict local boards of health and local health officers from enforcing and ensuring compliance by private businesses with all lawfully adopted regulations, directives, and orders – including those related to routine activities such as restaurant safety inspections. The amendments are also designed to prevent an onslaught of costly litigation associated with retroactive applicability against the State of Montana.

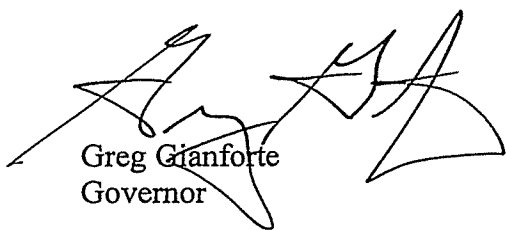
President Blasdel
Speaker Galt
April 29, 2021
Page 3

For these reasons, I respectfully ask for your support of this amendment.

Finally, as we prepare to gavel out, I want to let you know I appreciate working with the Legislature on efforts to get our economy going again, return to normal, and end government overreach. Together, we have ended the statewide mask mandate. We have protected businesses from frivolous lawsuits related to the pandemic. We have ended arbitrary restrictions on businesses, like limits on hours of operation and capacity limits. We have increased local elected officials' oversight of public health actions in their communities. We have prohibited so-called vaccine passports in Montana and prevented discrimination against those who choose not to receive a vaccine.

I am grateful to work together with you to rein in government overreach, and I look forward to continuing to work with you during the interim.

Sincerely,



Greg Gianforte
Governor

Enclosure

cc: Legislative Services Division
Christi Jacobsen, Secretary of State

Amendments to House Bill No. 257
Reference Copy

Requested by the Governor
For the (H) Committee of the Whole

Prepared by Todd Everts
04/29/2021, 06:30:38

1. Page 11, line 20.
Following: the first "REGULATION"
Strike: ", INCLUDING BUT NOT LIMITED TO A REGULATION"
2. Page 11, line 21.
Following: "(2) (c) (VI)"
Strike: "✓"
3. Page 12.
Following: line 8
Insert: "(6) The prohibitions provided for in subsection (4) do not restrict a local board of health from exercising its authority under this section to enforce and ensure compliance by private businesses with all lawfully adopted regulations, directives, and orders."
Renumber: subsequent subsection
4. Page 13.
Following: line 1
Insert: "(3) The prohibitions provided for in 50-2-116(4) do not restrict a local health officer from exercising the health officer's authority under this section or 50-2-123 to enforce and ensure compliance by private businesses with all lawfully adopted regulations, directives, and orders."
5. Page 17, line 5.
Following: the first "regulation"
Strike: ", including but not limited to a regulation"
6. Page 17, line 6.
Following: "(2) (c) (vi)"
Strike: "✓"
7. Page 17.
Following: line 21
Insert: "(7) The prohibitions provided for in subsection (5) do not restrict a local board of health from exercising its authority under this section to enforce and ensure compliance by private businesses with all lawfully adopted regulations, directives, and orders."
Renumber: subsequent subsection
8. Page 18.
Following: line 23
Insert: "(4) The prohibitions provided for in 50-2-116(5) do not restrict a local health officer from exercising the local health officer's authority under this section or 50-2-123 to enforce and ensure compliance by private businesses with all lawfully adopted regulations, directives, and orders."
9. Page 20, line 7.
Following: "FO"

Insert: "local"

10. Page 20, line 8.

Following: "ENACTED"

Insert: ", "

Strike: "OR"

11. Page 20, line 8.

Following: "ADOPTED"

Insert: ", or in force"

12. Page 20, line 8.

Strike: "JANUARY 1, 2020"

Insert: "May 1, 2021"

- END -

Explanation - Note: Because the page and line numbers referred to in these amendment instructions are required to match the page and line numbers of the official bill version being amended, they will not necessarily match the page and line numbers shown in any related Amendments in Context document.