

HOUSE BILL 212

Introduced by Cohen, et al.

1/16	Introduced
1/16	Referred to Judiciary
1/17	First Reading
2/01	Hearing
2/06	Committee Report--Bill Passed as Amended
2/06	Taken From Printing and Rereferred to Judiciary
2/15	Committee Report--Bill Passed as Amended
2/18	2nd Reading Passed
2/20	3rd Reading Passed
	Transmitted to Senate
2/21	First Reading
2/21	Referred to Judiciary
3/08	Hearing
3/16	Committee Report--Bill Not Passed
3/16	Adverse Committee Report Adopted

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HOUSE BILL NO. 212
Chen J. J.

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR FREEDOM OF EXPRESSION BY STUDENTS; PROVIDING EXCEPTIONS; PROHIBITING PRIOR REVIEW OR RESTRAINT; PROHIBITING THE FIRING, TRANSFERRING, OR REMOVAL OF AN ADVISER FOR REFUSAL TO SUPPRESS PROTECTED STUDENT RIGHTS; PROVIDING IMMUNITY FROM LIABILITY FOR A SCHOOL OFFICIAL OR SCHOOL DISTRICT; REQUIRING THE BOARD OF TRUSTEES OF A SCHOOL DISTRICT TO ADOPT ADMINISTRATIVE RULES ESTABLISHING A FREEDOM OF EXPRESSION POLICY; AND PROVIDING FOR INJUNCTIVE OR DECLARATORY RELIEF."

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

NEW SECTION. Section 1. Freedom of expression for

students -- exceptions. (1) Except as provided in subsection (2), a student enrolled in a public school has the right to exercise freedom of speech and freedom of the press, including but not limited to the:

- (a) use of bulletin boards;
- (b) distribution of printed materials or petitions;
- (c) wearing of buttons, badges, and other insignia;
- (d) performance of theatrical and musical events; and
- (e) publication of news, opinion, or advertising or

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feature content in school-sponsored publications, regardless of whether the publications or other means of expression are supported financially by the school or through the use of school facilities or whether the publications or expressions are produced in conjunction with a class.

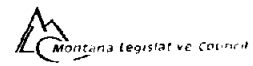
(2) A student may not express, publish, or distribute material that:

- (a) is obscene to minors as provided under 45-8-201 or 45-8-206;
- (b) is libelous or slanderous as provided under 27-1-802 or 27-1-803; or
- (c) creates a clear and present danger of inciting a student to commit an unlawful act on school premises, violate a school regulation, or cause a material and substantial disruption of the orderly operation of the school.

NEW SECTION. Section 2. Prior review or restraint

prohibited -- adviser protected. (1) A school administrator may review material for compliance with [section 1] but may not exercise prior restraint of material prepared for publication except when the material violates the provisions of [section 1]. A school official shall provide justification without delay prior to limiting student expression.

(2) Subject to the limitations provided in [section 1],



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INTRODUCED BILL
AB 212

1 a student editor of a school-sponsored publication is
 2 responsible for determining the news, opinion, and
 3 advertising and feature content of his publication.

4 (3) A journalism adviser or an adviser of student
 5 publications within each school shall supervise the
 6 production of each school-sponsored publication and teach
 7 professional standards of English and journalism to the
 8 student staff. A journalism adviser may not be fired,
 9 transferred, or removed from his position for refusing to
 10 suppress the protected free expression rights of a student
 11 journalist.

12 NEW SECTION. Section 3. Immunity from liability --
 13 adoption of policy required. (1) An expression made by a
 14 student in the exercise of free speech or free press
 15 pursuant to [section 1] is not considered an expression of
 16 school policy, and a school official or a school district
 17 may not be held liable in a civil or criminal action for an
 18 expression made or published by a student unless the school
 19 official has interfered with or altered the content of the
 20 student expression.

21 (2) The board of trustees of a school district shall
 22 adopt regulations establishing a written policy on student
 23 freedom of expression that includes reasonable provisions
 24 for the time, place, and manner of student expression and
 25 that is distributed to all students at the beginning of the

1 school year.

2 NEW SECTION. Section 4. Injunctive or declaratory
 3 relief. A student, individually or through a parent or
 4 guardian, or a publications adviser may seek injunctive or
 5 declaratory relief to enforce the rights provided in
 6 [sections 1 through 3].

-End-

RE-REFERRED AND
APPROVED BY COMMITTEE
ON JUDICIARY
AS AMENDED

HOUSE BILL NO. 212

INTRODUCED BY COHEN, FRITZ, SQUIRES, WHALEN, STRIZICH,
MEASURE, WYATT, REAM, GALVIN, BROOKE, HARRINGTON, HARPER,
WANZENRIED, TOOLE, LARSON, DAVIS, RANEY, COCCHIARELLA,
KIMBERLEY, S. RICE, HANSEN, L. NELSON, ELLIOTT, BRADLEY,
BARNHART, O'KEEFE, BECKER, SOUTHWORTH, MCCULLOCH

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR FREEDOM
OF EXPRESSION BY STUDENTS; PROVIDING EXCEPTIONS; PROHIBITING
PRIOR REVIEW OR RESTRAINT; PROHIBITING THE FIRING,
TRANSFERRING, OR REMOVAL OF AN ADVISER FOR REFUSAL TO
SUPPRESS PROTECTED STUDENT RIGHTS; ~~PROVIDING IMMUNITY FROM~~
CLARIFYING THE LIABILITY FOR OF A SCHOOL OFFICIAL OR SCHOOL
DISTRICT; REQUIRING THE BOARD OF TRUSTEES OF A SCHOOL
DISTRICT TO ~~ESTABLISH AN EDITORIAL BOARD AND~~ ADOPT
ADMINISTRATIVE RULES ESTABLISHING A FREEDOM OF EXPRESSION
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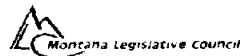
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- (e) publication of news, opinion, or advertising or
feature content in school-sponsored publications, regardless
of whether the publications or other means of expression are
supported financially by the school or through the use of
school facilities or whether the publications or expressions
are produced in conjunction with a class.

(2) A student may not express, publish, or distribute
material that:

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student to commit an unlawful act ~~on school premises,~~
violate a school regulation, or cause a material and
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NEW SECTION. Section 2. Prior review or restraint
prohibited -- adviser protected. (1) A school administrator
may review material for compliance with [section 1] but may
not exercise prior restraint of material prepared for
publication except when the material violates the provisions

SECOND READING



1 of [section 1]. A school official shall provide
2 justification without delay prior to limiting student
3 expression.

4 (2) Subject to the limitations provided in [section 1],
5 a student editor of a school-sponsored publication is
6 responsible for determining the news, opinion, and
7 advertising and feature content of his publication.

8 (3) A journalism adviser or an adviser of student
9 publications within each school shall supervise the
10 production of each school-sponsored publication and teach
11 professional standards of English and journalism to the
12 student staff FOR THE PURPOSE, AMONG OTHER THINGS, OF
13 PREVENTING VIOLATIONS OF [SECTION 1(2)]. A journalism
14 adviser may not be fired, transferred, or removed from his
15 position for refusing to suppress the protected free
16 expression rights of a student journalist.

17 NEW SECTION. Section 3. Immunity---from-----liability
18 LIABILITY -- adoption of BOARD-AND policy required. (1) An
19 expression made by a student in the exercise of free speech
20 or free press pursuant to [section 1] is not considered an
21 expression of school policy, and a school official or a
22 school district may not be held liable in a civil or
23 criminal action for an expression made or published by a
24 student PURSUANT TO [SECTION 1] unless the school official
25 has interfered with or altered the content of the student

1 expression.

2 (2) The board of trustees of a school district shall
3 ESTABLISH---AN---EDITORIAL---BOARD---AND adopt regulations
4 establishing a written policy on student freedom of
5 expression that includes reasonable provisions for the time,
6 place, and manner of student expression and that is
7 distributed to all students at the beginning of the school
8 year.

9 NEW SECTION. Section 4. Injunctive or declaratory
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