

HOUSE BILL NO. 860

INTRODUCED BY DOWELL, SCHYE, S. RICE, LEE,  
MEASURE, BOHARSKI, ECK, DARKO, DRISCOLL, WANZENRIED,  
TOOLE, RUSSELL, HOCKETT, COHEN, FORRESTER,  
MESSMORE, R. JOHNSON, MERCER, BRADLEY, KIMBERLEY,  
COCCHIARELLA, G. BECK, BROOKE, GERVAIS, STRIZICH,  
J. BROWN, ELLIOTT, O'KEEFE, SPRING, RANEY, CONNELLY

IN THE HOUSE

FEBRUARY 14, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
ON HUMAN SERVICES & AGING.

FEBRUARY 15, 1991                   FIRST READING.

FEBRUARY 20, 1991                   COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 21, 1991                   PRINTING REPORT.

FEBRUARY 25, 1991                   SECOND READING, DO PASS.  
  
ENGROSSING REPORT.

FEBRUARY 26, 1991                   THIRD READING, PASSED.  
AYES, 59; NOES, 39.  
  
TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 26, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
ON PUBLIC HEALTH, WELFARE, & SAFETY.  
  
FIRST READING.

MARCH 14, 1991                   COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

MARCH 16, 1991                   SECOND READING, CONCURRED IN.

MARCH 18, 1991                   THIRD READING, NOT CONCURRED IN.  
AYES, 24; NOES, 26.

MARCH 19, 1991                   ON MOTION, PREVIOUS ACTION  
RECONSIDERED.

MARCH 20, 1991                   ON MOTION, TAKEN FROM SECOND READING  
AND REREFERRED TO THE COMMITTEE

ON PUBLIC HEALTH.

MARCH 23, 1991

COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

MARCH 27, 1991

SECOND READING, CONCURRED IN.

MARCH 28, 1991

THIRD READING, CONCURRED IN.  
AYES, 36; NOES, 13.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 10, 1991

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

APRIL 11, 1991

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *HOUSE* BILL NO. 860 *Wm E Bohorst*  
 2 INTRODUCED BY *Dave* *Schye* *Rice* *Lee* *Mason*  
 3 *Marko* *Wagner* *Russell* *Hoff* *Lo*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT DECLARING ALL STATE *Bredley*  
 5 BUILDINGS TO BE SMOKE-FREE; ALLOWING AN AGENCY HEAD TO *Frombalay*  
 6 ESTABLISH DESIGNATED SMOKING AREAS; AMENDING SECTIONS *Lawson*  
 7 *50-40-107* AND *50-40-201*, MCA; AND PROVIDING AN EFFECTIVE *Comby*  
 8 DATE."

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

11 NEW SECTION. Section 1. Public policy. In recognition  
 12 of the increased health hazards of passive smoke on the  
 13 nonsmoker, it is the declared public policy of the state of  
 14 Montana that all buildings maintained by the state are to be  
 15 smoke-free.

16 NEW SECTION. Section 2. Definitions. As used in  
 17 [sections 1 through 4], the following definitions apply:

- 18 (1) "Agency head" means a director, commissioner, or  
 19 constitutional officer in charge of an executive,  
 20 legislative, or judicial branch agency or of an agency of  
 21 the Montana university system.
- 22 (2) "Department" means the department of administration  
 23 provided for in Title 2, chapter 15, part 10.
- 24 (3) "Smoking" means any lighted cigar, cigarette, or  
 25 pipe or any other lighted tobacco product.

- 1 NEW SECTION. Section 3. Smoke-free buildings --  
 2 designated smoking areas. (1) In buildings maintained by the  
 3 state, smoking is prohibited in the following areas:  
 4 (a) general office space;  
 5 (b) auditoriums, classrooms, and conference rooms;  
 6 (c) elevators;  
 7 (d) corridors, lobbies, restrooms, and stairways,  
 8 except as provided in subsections (2)(b) and (4);  
 9 (e) medical care facilities;  
 10 (f) libraries; and  
 11 (g) hazardous areas.
- 12 (2) An agency head may establish "designated smoking  
 13 areas" within the agency, except in those areas listed in  
 14 subsection (1).  
 15 (a) An agency head may designate a smoking area in a  
 16 cafeteria. The size of the area must be determined by an  
 17 estimate of the number of smoking and nonsmoking patrons  
 18 served.  
 19 (b) An agency head may designate a corridor, lobby, or  
 20 restroom as a smoking area when it is not possible to  
 21 designate another smoking area.  
 22 (3) In establishing designated smoking areas, as  
 23 provided in subsection (2), an agency head shall consider:  
 24 (a) the number of smokers and nonsmokers in the agency;  
 25 (b) the building ventilation system;



1 (c) the availability of space; and  
 2 (d) the protection of nonsmokers from involuntary  
 3 exposure to smoke.

4 (4) Agencies in multitenant buildings are encouraged to  
 5 work together to identify designated smoking areas.

6 NEW SECTION. Section 4. Signing -- smoking  
 7 receptacles. (1) The department shall place signs near each  
 8 entrance to a building stating that the building is  
 9 smoke-free.

10 (2) An agency head shall place signs stating where the  
 11 designated smoking areas are located.

12 (3) An agency head is responsible for providing  
 13 adequate ash trays or receptacles in the designated smoking  
 14 areas.

15 **Section 5.** Section 50-40-107, MCA, is amended to read:

16 **"50-40-107. Exemptions.** The following shall be exempt  
 17 from this part:

- 18 (1) restrooms;
- 19 (2) taverns or bars where meals are not served;
- 20 (3) vehicles or rooms seating six or fewer members of  
 21 the public;

22 (4) school district buildings and facilities designated  
 23 as tobacco-free by the board of trustees of the school  
 24 district;

25 (5) community college buildings or facilities

1 designated as tobacco-free by the board of trustees of the  
 2 community college district;

3 (6) state government buildings declared smoke-free."

4 **Section 6.** Section 50-40-201, MCA, is amended to read:

5 **"50-40-201. Reservation of smoking and nonsmoking areas**  
 6 **in work areas in state-and local government buildings.** In  
 7 offices and work areas in buildings maintained by the--state  
 8 or a political subdivision, except a school or community  
 9 college facility designated as tobacco-free by the board of  
 10 trustees of the school district or community college  
 11 district, in which seven or more employees of the state--or  
 12 political subdivision are employed, the manager or person in  
 13 charge of the work area shall arrange nonsmoking and smoking  
 14 areas in a convenient area."

15 NEW SECTION. Section 7. Codification instruction.

16 [Sections 1 through 4] are intended to be codified as an  
 17 integral part of Title 50, chapter 40, part 2, and the  
 18 provisions of Title 50, chapter 40, part 2, apply to  
 19 [sections 1 through 4].

20 NEW SECTION. Section 8. Effective date. [This act] is  
 21 effective May 1, 1991.

-End-

APPROVED BY COMM. ON NATURAL RESOURCES

HOUSE BILL NO. 860

INTRODUCED BY DOWELL, SCHYE, S. RICE, LEE, MEASURE, BOHARSKI, ECK, DARKO, DRISCOLL, WANZENRIED, TOOLE, RUSSELL, HOCKETT, COHEN, FORRESTER, MESSMORE, R. JOHNSON, MERCER, BRADLEY, KIMBERLEY, COCCHIARELLA, G. BECK, BROOKE, GERVAIS, STRIZICH, J. BROWN, ELLIOTT, O'KEEFE, SPRING, RANEY, CONNELLY

A BILL FOR AN ACT ENTITLED: "AN ACT DECLARING ALL STATE BUILDINGS TO BE SMOKE-FREE; ~~ALLOWING~~ REQUIRING AN AGENCY HEAD TO ESTABLISH ~~DESIGNATED--SMOKING--AREAS~~ AT LEAST ONE DESIGNATED SMOKING AREA IN EACH STATE BUILDING; AMENDING SECTIONS 50-40-107 AND 50-40-201, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Public policy. In recognition of the increased health hazards of passive smoke on the nonsmoker, it is the declared public policy of the state of Montana that all buildings maintained by the state are to be smoke-free.

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 4], the following definitions apply:

(1) "Agency head" means a director, commissioner, or constitutional officer in charge of an executive,

legislative, or judicial branch agency or of an agency of the Montana university system.

(2) "Department" means the department of administration provided for in Title 2, chapter 15, part 10.

(3) "Smoking" means any lighted cigar, cigarette, or pipe or any other lighted tobacco product.

NEW SECTION. Section 3. Smoke-free buildings -- designated smoking areas. (1) In buildings maintained by the state, smoking is prohibited in the following areas:

- (a) general office space;
- (b) auditoriums, classrooms, and conference rooms;
- (c) elevators;
- (d) corridors, lobbies, restrooms, and stairways, except as provided in subsections (2)(b) and (4);
- (e) medical care facilities;
- (f) libraries; and
- (g) hazardous areas.

(2) An agency head may SHALL establish AT LEAST ONE "designated smoking areas AREA" within the agency BUILDING, except in those areas listed in subsection (1).

(a) An agency head may designate a smoking area in a cafeteria. The size of the area must be determined by an estimate of the number of smoking and nonsmoking patrons served.

(b) An agency head may designate a corridor, lobby, or



1 restroom as a smoking area when it is not possible to  
2 designate another smoking area.

3 (3) In establishing designated smoking areas, as  
4 provided in subsection (2), an agency head shall consider:

- 5 (a) the number of smokers and nonsmokers in the agency;
- 6 (b) the building ventilation system;
- 7 (c) the availability of space; and
- 8 (d) the protection of nonsmokers from involuntary  
9 exposure to smoke.

10 (4) Agencies in multitenant buildings are encouraged to  
11 work together to identify designated smoking areas.

12 NEW SECTION. Section 4. Signing -- smoking  
13 receptacles. (1) The department shall place signs near each  
14 entrance to a building stating that the building is  
15 smoke-free.

16 (2) An agency head shall place signs stating where the  
17 designated smoking areas are located.

18 (3) An agency head is responsible for providing  
19 adequate ash trays or receptacles in the designated smoking  
20 areas.

21 (4) IN BUILDINGS OF HISTORICAL SIGNIFICANCE, THE  
22 DEPARTMENT SHALL PLACE SIGNS THAT ARE AESTHETICALLY PLEASING  
23 AND THAT FIT THE ARCHITECTURAL STYLE OF THE BUILDING.

24 Section 5. Section 50-40-107, MCA, is amended to read:  
25 "50-40-107. Exemptions. The following shall be exempt

1 from this part:

- 2 (1) restrooms;
- 3 (2) taverns or bars where meals are not served;
- 4 (3) vehicles or rooms seating six or fewer members of  
5 the public;
- 6 (4) school district buildings and facilities designated  
7 as tobacco-free by the board of trustees of the school  
8 district;
- 9 (5) community college buildings or facilities  
10 designated as tobacco-free by the board of trustees of the  
11 community college district;
- 12 (6) state government buildings declared smoke-free."

13 Section 6. Section 50-40-201, MCA, is amended to read:  
14 "50-40-201. Reservation of smoking and nonsmoking areas  
15 in work areas in state-and local government buildings. In  
16 offices and work areas in buildings maintained by the--state  
17 or a political subdivision, except a school or community  
18 college facility designated as tobacco-free by the board of  
19 trustees of the school district or community college  
20 district, in which seven or more employees of the state--or  
21 political subdivision are employed, the manager or person in  
22 charge of the work area shall arrange nonsmoking and smoking  
23 areas in a convenient area."

24 NEW SECTION. Section 7. Codification instruction.  
25 [Sections 1 through 4] are intended to be codified as an

1 integral part of Title 50, chapter 40, part 2, and the  
2 provisions of Title 50, chapter 40, part 2, apply to  
3 [sections 1 through 4].

4 NEW SECTION. **Section 8.** Effective date. [This act] is  
5 effective May 1, 1991.

-End-

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 9 A BILL FOR AN ACT ENTITLED: "AN ACT DECLARING ALL STATE  
 10 BUILDINGS TO BE SMOKE-FREE; ~~ALLOWING~~ REQUIRING AN AGENCY  
 11 HEAD TO ESTABLISH ~~DESIGNATED--SMOKING--AREAS~~ AT LEAST ONE  
 12 DESIGNATED SMOKING AREA IN EACH STATE BUILDING; AMENDING  
 13 SECTIONS 50-40-107 AND 50-40-201, MCA; AND PROVIDING AN  
 14 EFFECTIVE DATE."

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

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 19 nonsmoker, it is the declared public policy of the state of  
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12 (c) elevators;

13 (d) corridors, lobbies, restrooms, and stairways,  
 14 except as provided in subsections (2)(b) and (4);

15 (e) medical care facilities;

16 (f) libraries; and

17 (g) hazardous areas.

18 (2) An agency head ~~may~~ SHALL establish AT LEAST ONE  
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 20 except in those areas listed in subsection (1).

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 22 cafeteria. The size of the area must be determined by an  
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25 (b) An agency head may designate a corridor, lobby, or



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3 (3) In establishing designated smoking areas, as  
4 provided in subsection (2), an agency head shall consider:

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- 8 (d) the protection of nonsmokers from involuntary  
9 exposure to smoke.

10 (4) Agencies in multitenant buildings are encouraged to  
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21 (4) IN BUILDINGS OF HISTORICAL SIGNIFICANCE, THE  
22 DEPARTMENT SHALL PLACE SIGNS THAT ARE AESTHETICALLY PLEASING  
23 AND THAT FIT THE ARCHITECTURAL STYLE OF THE BUILDING.

24 **Section 5.** Section 50-40-107, MCA, is amended to read:  
25 "50-40-107. Exemptions. The following shall be exempt

1 from this part:

- 2 (1) restrooms;
- 3 (2) taverns or bars where meals are not served;
- 4 (3) vehicles or rooms seating six or fewer members of  
5 the public;
- 6 (4) school district buildings and facilities designated  
7 as tobacco-free by the board of trustees of the school  
8 district;
- 9 (5) community college buildings or facilities  
10 designated as tobacco-free by the board of trustees of the  
11 community college district;
- 12 (6) state government buildings declared smoke-free."

13 **Section 6.** Section 50-40-201, MCA, is amended to read:  
14 "50-40-201. Reservation of smoking and nonsmoking areas  
15 in work areas in state and local government buildings. In  
16 offices and work areas in buildings maintained by the state  
17 or a political subdivision, except a school or community  
18 college facility designated as tobacco-free by the board of  
19 trustees of the school district or community college  
20 district, in which seven or more employees of the state or  
21 political subdivision are employed, the manager or person in  
22 charge of the work area shall arrange nonsmoking and smoking  
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24 NEW SECTION. Section 7. Codification instruction.  
25 [Sections 1 through 4] are intended to be codified as an

1 integral part of Title 50, chapter 40, part 2, and the  
2 provisions of Title 50, chapter 40, part 2, apply to  
3 [sections 1 through 4].

4 NEW SECTION. **Section 8.** Effective date. [This act] is  
5 effective May 1, 1991.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 14, 1991

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 860 (third reading copy -- blue), respectfully report that House Bill No. 860 be amended and as so amended be concurred in:

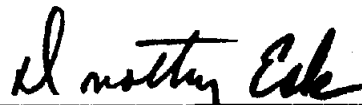
1. Title, line 10.  
Following: "~~ALLOWING~~"  
Strike: "REQUIRING"  
Insert: "ALLOWING"

2. Page 2, line 18.  
Following: "may"  
Strike: "SHALL"  
Insert: "may"

3. Page 2, line 19.  
Following: "AREA"  
Strike: "within the"  
Insert: "in each"

4. Page 2, line 20.  
Following: "(1)"  
Insert: ", suited by architectural design and functional purpose  
to be used as a smoking area"

Signed: \_\_\_\_\_

  
Dorothy Eck, Chairman

pg 3-14-91  
Amd. Coord.

SB 3-14 12:35  
Sec. of Senate

SENATE  
HB 860

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 23, 1991


MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 860 (reference bill as amended -- salmon), respectfully report that House Bill No. 860 be amended and as so amended be concurred in:

1. Title, line 10.  
Following: "REQUIRING"  
Strike: "ALLOWING"  
Insert: "REQUIRING"

2. Page 2, line 18.  
Following: "SHALL"  
Strike: "MAY"  
Insert: "shall"

Signed: \_\_\_\_\_

  
Dorothy Eck, Chairman

*M* 3-23-91  
Asst. Coord.

*SB* 3-23 9:20  
Sec. of Senate

SENATE

HB 860

## 1 HOUSE BILL NO. 860

2 INTRODUCED BY DOWELL, SCHYE, S. RICE, LEE,

3 MEASURE, BOHARSKI, ECK, DARKO, DRISCOLL, WANZENRIED,

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9 A BILL FOR AN ACT ENTITLED: "AN ACT DECLARING ALL STATE  
10 BUILDINGS TO BE SMOKE-FREE; ~~ALLOWING~~ REQUIRING ~~ALLOWING~~  
11 REQUIRING AN AGENCY HEAD TO ESTABLISH DESIGNATED--SMOKING  
12 AREAS AT LEAST ONE DESIGNATED SMOKING AREA IN EACH STATE  
13 BUILDING; AMENDING SECTIONS 50-40-107 AND 50-40-201, MCA;  
14 AND PROVIDING AN EFFECTIVE DATE."

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

17 NEW SECTION. Section 1. Public policy. In recognition  
18 of the increased health hazards of passive smoke on the  
19 nonsmoker, it is the declared public policy of the state of  
20 Montana that all buildings maintained by the state are to be  
21 smoke-free.

22 NEW SECTION. Section 2. Definitions. As used in  
23 [sections 1 through 4], the following definitions apply:

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17 (g) hazardous areas.

18 (2) An agency head ~~may~~ SHALL MAY SHALL establish AT  
19 LEAST ONE "designated smoking areas AREA" within-the IN EACH  
20 agency BUILDING, except in those areas listed in subsection  
21 (1), SUITED BY ARCHITECTURAL DESIGN AND FUNCTIONAL PURPOSE  
22 TO BE USED AS A SMOKING AREA.

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25 estimate of the number of smoking and nonsmoking patrons

1 served.

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3 restroom as a smoking area when it is not possible to  
4 designate another smoking area.

5 (3) In establishing designated smoking areas, as  
6 provided in subsection (2), an agency head shall consider:

- 7 (a) the number of smokers and nonsmokers in the agency;
- 8 (b) the building ventilation system;
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22 district, in which seven or more employees of the state-or  
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HB 0860/04

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2    [Sections 1 through 4] are intended to be codified as an  
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24 (1) "Agency head" means a director, commissioner, or  
 25 constitutional officer in charge of an executive,

1 legislative, or judicial branch agency or of an agency of  
 2 the Montana university system.

3 (2) "Department" means the department of administration  
 4 provided for in Title 2, chapter 15, part 10.

5 (3) "Smoking" means any lighted cigar, cigarette, or  
 6 pipe or any other lighted tobacco product.

7 NEW SECTION. Section 3. Smoke-free buildings --  
 8 designated smoking areas. (1) In buildings maintained by the  
 9 state, smoking is prohibited in the following areas:

10 (a) general office space;

11 (b) auditoriums, classrooms, and conference rooms;

12 (c) elevators;

13 (d) corridors, lobbies, restrooms, and stairways,  
 14 except as provided in subsections (2)(b) and (4);

15 (e) medical care facilities;

16 (f) libraries; and

17 (g) hazardous areas.

18 (2) An agency head may SHALL MAY establish AT LEAST ONE  
 19 "designated smoking areas AREA" within the IN EACH agency  
 20 BUILDING, except in those areas listed in subsection (1),  
 21 SUITED BY ARCHITECTURAL DESIGN AND FUNCTIONAL PURPOSE TO BE  
 22 USED AS A SMOKING AREA.

23 (a) An agency head may designate a smoking area in a  
 24 cafeteria. The size of the area must be determined by an  
 25 estimate of the number of smoking and nonsmoking patrons



1 served.

2 (b) An agency head may designate a corridor, lobby, or  
3 restroom as a smoking area when it is not possible to  
4 designate another smoking area.

5 (3) In establishing designated smoking areas, as  
6 provided in subsection (2), an agency head shall consider:

- 7 (a) the number of smokers and nonsmokers in the agency;
- 8 (b) the building ventilation system;
- 9 (c) the availability of space; and
- 10 (d) the protection of nonsmokers from involuntary  
11 exposure to smoke.

12 (4) Agencies in multitenant buildings are encouraged to  
13 work together to identify designated smoking areas.

14 NEW SECTION. Section 4. Signing -- smoking  
15 receptacles. (1) The department shall place signs near each  
16 entrance to a building stating that the building is  
17 smoke-free.

18 (2) An agency head shall place signs stating where the  
19 designated smoking areas are located.

20 (3) An agency head is responsible for providing  
21 adequate ash trays or receptacles in the designated smoking  
22 areas.

23 (4) IN BUILDINGS OF HISTORICAL SIGNIFICANCE, THE  
24 DEPARTMENT SHALL PLACE SIGNS THAT ARE AESTHETICALLY PLEASING  
25 AND THAT FIT THE ARCHITECTURAL STYLE OF THE BUILDING.

1 **Section 5.** Section 50-40-107, MCA, is amended to read:

2 **"50-40-107. Exemptions.** The following shall be exempt  
3 from this part:

- 4 (1) restrooms;
- 5 (2) taverns or bars where meals are not served;
- 6 (3) vehicles or rooms seating six or fewer members of  
7 the public;
- 8 (4) school district buildings and facilities designated  
9 as tobacco-free by the board of trustees of the school  
10 district;
- 11 (5) community college buildings or facilities  
12 designated as tobacco-free by the board of trustees of the  
13 community college district;
- 14 (6) state government buildings declared smoke-free."

15 **Section 6.** Section 50-40-201, MCA, is amended to read:

16 **"50-40-201. Reservation of smoking and nonsmoking areas**  
17 **in work areas in state-and local government buildings.** In  
18 offices and work areas in buildings maintained by ~~the--state~~  
19 ~~or~~ a political subdivision, except a school or community  
20 college facility designated as tobacco-free by the board of  
21 trustees of the school district or community college  
22 district, in which seven or more employees of the ~~state--or~~  
23 political subdivision are employed, the manager or person in  
24 charge of the work area shall arrange nonsmoking and smoking  
25 areas in a convenient area."

1        NEW SECTION.    **Section 7.**    Codification        instruction.  
2        [Sections 1 through 4] are intended to be codified as an  
3        integral part of Title 50, chapter 40, part 2, and the  
4        provisions of Title 50, chapter 40, part 2, apply to  
5        [sections 1 through 4].  
6        NEW SECTION.    **Section 8.**    Effective date. [This act] is  
7        effective May 1, 1991.

-End-