

SENATE BILL 369

Introduced by Jacobson, et al.

2/13	Introduced
2/13	First Reading
2/13	Referred to Public Health, Welfare & Safety
2/13	Fiscal Note Requested
2/19	Fiscal Note Received
2/19	Fiscal Note Printed
2/20	Hearing
3/14	Committee Report--Bill Passed as Amended
3/15	2nd Reading Passed as Amended
3/16	3rd Reading Passed
	Transmitted to House
3/18	First Reading
3/18	Referred to Business & Economic Development
3/22	Hearing
3/22	Tabled in Committee

1 *Senate* BILL NO. *369*
 2 INTRODUCED BY *Jacobson Becker Kadas Maszuch*
 3 *Stanger Hovner Selby Vilkley*

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE SALE OF
 5 TOBACCO PRODUCTS TO A PERSON UNDER 18 YEARS OF AGE;
 6 REQUIRING A LICENSE FOR RETAIL SALES OF TOBACCO PRODUCTS;
 7 REQUIRING THE POSTING OF SIGNS; AND PROVIDING PENALTIES."

8
 9 STATEMENT OF INTENT

10 A statement of intent is required for this bill because
 11 [section 6] grants the department of revenue authority to
 12 adopt rules.

13 It is the intent of the legislature to reduce the number
 14 of young people who use tobacco products, recognize the
 15 responsibility of retail sellers for the use of tobacco
 16 products by young people, establish a system of regulations
 17 and sanctions prohibiting the sale of tobacco products to
 18 young people, and provide for the posting of signs informing
 19 young people that sales of tobacco products to them are
 20 illegal.

21
 22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23 NEW SECTION. **Section 1.** License for retail sale of
 24 tobacco products. (1) A person, business, or other entity
 25 may not sell tobacco products at retail, either over the

1 counter, by vending machine, or otherwise, without a
 2 license.

3 (2) A license for the retail sale of tobacco products
 4 may be obtained from the department of revenue upon payment
 5 of a \$10 license fee.

6 (3) The department may retain the fee proceeds for
 7 purposes of administering [sections 1 through 6]. The
 8 department shall by rule increase or decrease the license
 9 fee as necessary to make the fee commensurate with the
 10 department's costs of administering [sections 1 through 6].

11 NEW SECTION. **Section 2.** Signs. A retail seller of
 12 tobacco products shall conspicuously display, at each place
 13 on the premises at which tobacco products are sold, a sign
 14 to be provided by the department of revenue without charge
 15 and stating that: "It is illegal to sell tobacco products to
 16 persons under 18 years of age."

17 NEW SECTION. **Section 3.** Sale of tobacco products to
 18 persons under 18 years of age prohibited. A person,
 19 business, or other entity may not sell a tobacco product at
 20 retail to a person under 18 years of age, either over the
 21 counter, by vending machine, or otherwise. If there is a
 22 reasonable doubt as to the person's age, the seller shall
 23 require presentation of a driver's license or other
 24 generally accepted identification that includes a picture of
 25 the person.



-2- INTRODUCED BILL
 SB 369

1 NEW SECTION. Section 4. Penalties. (1) Failure to
2 obtain a license as provided in [section 1] or to post signs
3 as provided in [section 2] is punishable by a civil penalty
4 of \$100.

5 (2) A retail sale of a tobacco product to a person
6 under 18 years of age is punishable by a civil penalty of
7 \$100. A subsequent violation within 1 year is punishable by
8 a civil penalty of \$250. A third violation is punishable by
9 a civil penalty of \$500 if two violations occurred within
10 the 2-year period prior to that violation, and a fourth
11 violation is punishable by a civil penalty of \$1,000 if
12 three or more violations occurred within the 2-year period
13 prior to that violation.

14 (3) A license holder is not subject to a civil penalty
15 under subsection (2) for a violation by his employee or
16 agent if the sale was without the knowledge of the license
17 holder and the license holder shows that he had in place a
18 system to prevent violations of subsection (2).

19 (4) (a) The county attorney of the county in which a
20 civil penalty is imposed under subsection (2) shall inform
21 the department of revenue of the imposition of the penalty.

22 (b) The department shall suspend the person's retail
23 tobacco product sales license for:

- 24 (i) 7 days if the civil penalty imposed was \$250;
25 (ii) 1 to 6 months if the civil penalty imposed was

1 \$500; and

2 (iii) 9 to 18 months if the civil penalty imposed was
3 \$1,000.

4 (c) If, within a 2-year period, civil penalties are
5 imposed for three or more violations of subsection (2) at
6 each of three or more premises under common ownership or
7 control, the department shall suspend all licenses issued to
8 all premises under that common ownership for a period of 9
9 to 18 months.

10 NEW SECTION. Section 5. Local regulations. A local
11 government may by ordinance adopt regulations on the
12 subjects of [sections 1 through 6] that are more stringent
13 than [sections 1 through 6].

14 NEW SECTION. Section 6. Rulemaking authority. The
15 department of revenue may adopt rules to implement [sections
16 1 through 6].

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0369, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act prohibiting the sale of tobacco products to a person under 18 years of age; requiring a license for retail sales of tobacco products; requiring the posting of signs; and providing penalties.


ASSUMPTIONS:

1. This proposal would be effective October 1, 1991.
2. The proposed license for retail sale of tobacco products is in addition to any other cigarette license fees.
3. The proposed retail sale of tobacco products license fee will be \$10.
4. There are currently 2,288 licensed cigarette retailers and vendors who would be required to purchase this proposed license and approximately 10 additional retailers who sell tobacco products but no cigarettes.
5. This is a one-time license and fee.
6. There will be no licensing in FY93.

FISCAL IMPACT:

<u>Revenues:</u>	<u>FY 92</u>			<u>FY 93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Tobacco Retail License Fee (02)	0	22,980	22,980	0	0	0

To the extent that the provisions of this bill are successful in curbing consumption of tobacco products to persons under age 18, cigarette and tobacco tax revenue will decrease. Data on the consumption of tobacco products by persons under age 18 are not available to provide an estimate of the impact on cigarette and tobacco tax revenue.



 ROD SUNDSTED, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

_____ 2/19/91
 JUDY H. JACOBSON, PRIMARY SPONSOR DATE
 Fiscal Note for SB0369, as introduced **SB 369**

APPROVED BY COMMITTEE
ON PUBLIC HEALTH, WELFARE
& SAFETY

SENATE BILL NO. 369

INTRODUCED BY JACOBSON, BECKER, KADAS, MAZUREK,
STRIZICH, BLAYLOCK, HARPER, SCHYE, VAN VALKENBURG

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE SALE OR
DISTRIBUTION OF TOBACCO PRODUCTS TO A PERSON UNDER 18 YEARS
OF AGE; REQUIRING A LICENSE FOR RETAIL SALES OF TOBACCO
PRODUCTS; REQUIRING THE POSTING OF SIGNS; AND PROVIDING
PENALTIES."

STATEMENT OF INTENT

A statement of intent is required for this bill because
[section 6 7] grants the department of revenue authority to
adopt rules.

It is the intent of the legislature to reduce the number
of young people who use tobacco products, recognize the
responsibility of retail sellers for the use of tobacco
products by young people, establish a system of regulations
and sanctions prohibiting the sale OR DISTRIBUTION of
tobacco products to young people, and provide for the
posting of signs informing young people that sales OR
DISTRIBUTION of tobacco products to them are illegal.

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

NEW SECTION. Section 1. License for retail sale of

tobacco products. (1) A person, business, or other entity
may not sell tobacco products at retail, either over the
counter, by vending machine, or otherwise, without a
license.

(2) A license for the retail sale of tobacco products
may be obtained from the department of revenue upon payment
of a \$10 license fee.

(3) The department may retain the fee proceeds for
purposes of administering [sections 1 through 6 7]. The
department shall by rule increase or decrease the license
fee as necessary to make the fee commensurate with the
department's costs of administering [sections 1 through 6
7].

NEW SECTION. Section 2. Signs. A retail seller of
tobacco products shall conspicuously display, at each place
on the premises at which tobacco products are sold, a sign
to be provided by the department of revenue without charge
and stating that: "It is illegal to sell OR DISTRIBUTE
tobacco products to persons under 18 years of age."

NEW SECTION. Section 3. Sale OR DISTRIBUTION of
tobacco products to persons under 18 years of age
prohibited. A person, business, or other entity may not sell
OR DISTRIBUTE a tobacco product at-retail to a person under
18 years of age, either over the counter, by vending
machine, or otherwise. If there is a reasonable doubt as to

SECOND READING



1 the person's age, the seller shall require presentation of a
2 driver's license or other generally accepted identification
3 that includes a picture of the person.

4 NEW SECTION. SECTION 4. SALES FROM TOBACCO VENDING
5 MACHINES. TOBACCO PRODUCTS MAY BE SOLD THROUGH A VENDING
6 MACHINE ONLY IN:

7 (1) FACTORIES, BUSINESSES, OFFICES, AND OTHER PLACES
8 NOT OPEN TO THE GENERAL PUBLIC;

9 (2) PLACES TO WHICH PERSONS UNDER 18 YEARS OF AGE ARE
10 NOT PERMITTED ACCESS; AND

11 (3) PLACES WHERE THE VENDING MACHINE IS UNDER THE
12 DIRECT SUPERVISION OF THE OWNER OR AN EMPLOYEE OF THE
13 ESTABLISHMENT. THE SALE OF TOBACCO PRODUCTS FROM A VENDING
14 MACHINE UNDER DIRECT SUPERVISION OF THE OWNER OR AN EMPLOYEE
15 OF THE ESTABLISHMENT IS CONSIDERED A SALE OF TOBACCO
16 PRODUCTS BY THAT PERSON FOR PURPOSES OF [SECTION 3].

17 NEW SECTION. Section 5. Penalties. (1) Failure to
18 obtain a license as provided in [section 1] or to post signs
19 as provided in [section 2] is punishable by a civil penalty
20 of \$100.

21 (2) A retail sale of a tobacco product to a person
22 under 18 years of age is punishable by a civil penalty of
23 \$100. A subsequent violation within 1 year is punishable by
24 a civil penalty of \$250. A third violation is punishable by
25 a civil penalty of \$500 if two violations occurred within

1 the 2-year period prior to that violation, and a fourth
2 violation is punishable by a civil penalty of \$1,000 if
3 three or more violations occurred within the 2-year period
4 prior to that violation.

5 (3) A license holder is not subject to a civil penalty
6 under subsection (2) for a violation by his employee or
7 agent if the sale was without the knowledge of the license
8 holder and the license holder shows that he had in place a
9 system to prevent violations of subsection (2).

10 (4) (a) The county attorney of the county in which a
11 civil penalty is imposed under subsection (2) shall inform
12 the department of revenue of the imposition of the penalty.

13 (b) The department shall suspend the person's retail
14 tobacco product sales license for:

15 (i) 7 days if the civil penalty imposed was ~~\$250~~ FOR A
16 SECOND VIOLATION WITHIN A 1-YEAR PERIOD;

17 (ii) 1 to 6 months if the civil penalty imposed was ~~\$500~~
18 FOR A THIRD VIOLATION WITHIN A 2-YEAR PERIOD; and

19 (iii) 9 to 18 months if the civil penalty imposed was
20 ~~\$1,000~~ FOR A FOURTH OR SUBSEQUENT VIOLATION WITHIN A 2-YEAR
21 PERIOD.

22 (c) If, within a 2-year period, civil penalties are
23 imposed for three or more violations of subsection (2) at
24 each of three or more premises under common ownership or
25 control, the department shall suspend all licenses issued to

1 all premises under that common ownership for a period of 9
2 to 18 months.

3 NEW SECTION. **Section 6. Local regulations.** A local
4 government may by ordinance adopt regulations on the
5 subjects of [sections 1 through 6 7] that are more AS
6 stringent than AS [sections 1 through 6 7].

7 NEW SECTION. **Section 7. Rulemaking authority.** The
8 department of revenue may adopt rules to implement [sections
9 1 through 6 7].

-End-

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3 STRIZICH, BLAYLOCK, HARPER, SCHYE, VAN VALKENBURG

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7 of a \$10 license fee.

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9 purposes of administering [sections 1 through 6 7 8]. The
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18 and stating that: "It is illegal to sell OR DISTRIBUTE
19 tobacco products to persons under 18 years of age."

20 NEW SECTION. Section 3. Sale OR DISTRIBUTION of
21 tobacco products to persons under 18 years of age
22 prohibited. A person, business, or other entity may not sell
23 OR DISTRIBUTE a tobacco product ~~at-retail~~ to a person under
24 18 years of age, either over the counter, by vending
25 machine, or otherwise. If there is a reasonable doubt as to

1 the person's age, the seller shall require presentation of a
2 driver's license or other generally accepted identification
3 that includes a picture of the person.

4 NEW SECTION. SECTION 4. PURCHASE OR RECEIPT OF TOBACCO
5 PRODUCTS BY MINORS PROHIBITED -- PENALTY. (1) IT IS UNLAWFUL
6 FOR A PERSON WHO IS UNDER 18 YEARS OF AGE TO PURCHASE OR
7 RECEIVE A TOBACCO PRODUCT.

8 (2) A PERSON WHO VIOLATES THIS SECTION SHALL BE FINED
9 AN AMOUNT NOT TO EXCEED \$50.

10 NEW SECTION. SECTION 5. SALES FROM TOBACCO VENDING
11 MACHINES. TOBACCO PRODUCTS MAY BE SOLD THROUGH A VENDING
12 MACHINE ONLY IN:

13 (1) FACTORIES, BUSINESSES, OFFICES, AND OTHER PLACES
14 NOT OPEN TO THE GENERAL PUBLIC;

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20 MACHINE UNDER DIRECT SUPERVISION OF THE OWNER OR AN EMPLOYEE
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9 NEW SECTION. Section 7. Local regulations. A local
10 government may by ordinance adopt regulations on the
11 subjects of [sections 1 through 6 7 8] that are more AS
12 stringent than AS [sections 1 through 6 7 8].

13 NEW SECTION. Section 8. Rulemaking authority. The
14 department of revenue may adopt rules to implement [sections
15 1 through 6 7 8].

-End-