

February 7, 1979

HUMAN SERVICES PROCEEDINGS:

A Human Services Committee hearing was held February 7, 1979, in the Capitol Annex, room #20. The meeting was called to order at 12:30 by Chairman Holmes and all members were present, except Representative Azzara and Feds.

HOUSE BILL # 304 -- SPONSOR: Rep. Joe Kanduch, District 89 presented his bill, stating that he felt that he was the person that would stand and present a "no-smoking bill". This, contrary to what it may seem is not a "no-smoking bill", it is a smoking section bill. When a person has a need, he looks for a sign, i.e. the bathroom, and when I need to smoke, I look for a sign in states which have enacted such legislation. When people want to smoke, let them go to their own areas and do so without infringing upon a non-smoker's right to breath clean air.

With a similar intent on both bills heard before this committee all testimony presented was mutually done so for time factors involved.

HOUSE BILL # 235 -- SPONSOR: Rep. Robert Ellerd, District #75, presented this bill saying that he was pleased and honored to be the sponsor, this bill is not a laughing matter, as has been the case in the past, and hopes that the committee will consider it in all seriousness. Rep. Ellerd then read the bill and stated that non-smokers are only asking to get away from the smoke. PROPONENTS: Dr. Richard Buswell, Shodair Hospital, is an allergy therapist. He sent a letter to all committee members showing the results of studies done on second hand smoke. This bill is introduced to allow the non-smoking public to enjoy public places. This bill has been endorsed by the Montana Lung Association, the Montana Medical Association, the Montana Nurses Association, and the Montana Society of Respiratory Therapists. There is no policing required by anyone, a sign only need be posted. Extra revenue will not be needed nor will extra manpower. There are 35 states who already have similar legislation and this bill is very benign compared to the rest. I urge your support. Dr. Mike Huntington, Northern Rockies Regional Cancer Treatment Center, graduated in 1974 from Oregon State University Medical School. He had three questions to pose to the committee. What is side stream smoke and what is it's seriousness? Side Stream smoke is that which comes directly from the end of a cigarette. It emits Tar, Nicotine, Benzopyrene, Phyrene, Phenol, Cadmium, as well as several other pollutants. In an enclosed room it is between two to forty-six times what the smoker inhales. In an enclosed auto, with one smoker, it can reach up to 90 ppm (parts per million), which is over ten times the capacity allowed by the Federal Air Quality standards for outside air limits. Infants and children are particularly vulnerable and they suffer two times the amount of lung illness and loss of school than children with non-smoking parents. His second question was: "should a state try to stop the effects of side stream smoke by enacting legislation such as this?" Yes, so that others who don't want the negative effects of side-stream smoke getting to them can be safe. House Bill #235 will do this. His third question was: "Will there be a loss of freedom or income?" No. There will be greater freedom for those who don't smoke as well as for those who do. There will be no loss of revenue for restaurant owners because all this legislation requests is that you purchase a sign and

and certificate from the Department of Health at cost, and the degree in the drop of consumption of side stream smoke could cost a great deal less in medical expenses for those agitated by it's components. Dr. Martin Skinner, Disease Control Department of Department of Health and speaking for the Director of this Department does support this legislation. There appears to be no problems with financing or administration. Mr. Will Seltzer, director of the Lewis and Clark County Health Department said that as the bill stands, it will put a great deal of pressure on the Lewis and Clark County Health Department, but with the amendments that he proposed, they would give it a do pass recommendation. Ms. Shirley Thennis, said that on behalf of the thirteen hundred members of the Montana Nurses' Association, she offers her full endorsement for House Bill No. 235 because we are concerned that the public health of the non-smoker needs to be protected. Mr. Leonard Bates, Chief Respiratory Therapist at St. Peters Community Hospital said that a typical cigarette smoker inhales only 1/7 of his cigarette smoke, while the other 6/7 are given off into the atmosphere in the form of side-stream smoke. Studies have shown that in enclosed areas where tobacco is being smoked, Carbon Dioxide levels reach 50-80 ppm. The standard set by the Federal Government for a 49 hour work week is 50 ppm. In a smoke filled room, a non-smoker can take into his body the equivalent of one cigarette per hour in Carbon Dioxide. In view of this evidence, I whole-heartedly support passage of House Bill No. 235. Mr. Earl Thomas, Executive Director of the Montana Lung Association, said that letters are coming in everyday to ask that since all the evidence is out, why not enact such legislation. In view of all of these letters and the evidence presented, I strongly support a do pass recommendation on this bill. Mr. Art Kussman, concerned citizen, said that he has no desire to ask smokers to quit, just to allow those non-smokers to have the same privileges as smokers. This bill could easily be compared with smoking cars in trains at the turn of the century. This bill allows people who want to smoke and not damage their neighbors, to have a place to go where you can smoke in comfort. Mr. Jensen, Pastor of a Seventh Day Adventist Church who has participated in their "Stop Smoking Clinics" said that through his involvement, he is absolutely convinced that the effects of cigarettes are detrimental not only because of distress and discomfort. Smokers are in the minority and those who smoke shouldn't impose his rights on those who don't. Montana is behind the times in such legislation. Mrs. Pauline deBarathy, testified that she is a victim of not having special places for smokers to go. She worked for the FBI in Butte for seven years. "During that time, I searched for medication to get me through my daily work. In 1975 I wrote to the Director of the FBI, Mr. Kelly, informing him of the problem and his reply was 'you may be interested to know that I have received similar requests, but feel that this matter should be left to each individual special agent in that locality.'" She informed her area chief of this problem and he said that he couldn't do anything, because it would force all the smokers to spend too much time away from their desks. It got so uncomfortable for Ms. deBarathy that she finally had to quit her job. She quoted the Montana Constitution saying that under the inalienable

rights "all Montanans are entitled to a clean and healthy environment. Please pass this bill so that I can work", was her plea. Ms. Stephanie Steinberger, a victim also, said that she is an asthma patient who must pay over \$400 a year alone for medication. I strongly urge your support in this bill. Ms. Joan Anders stated that "your smoke is bad for me, because I have recently been diagnosed as asthmatic, and the office I work in three out of twenty of the members don't smoke. At times in the office it is so bad, I can hardly stand it. Cigarette smoke gives me headaches. I'm not asking you to stop smoking, I'm only asking to give those of us who don't smoke a place to go and enjoy fresh air. Like a young man I heard exclaim to his parents who both smoke: 'Don't smoke me!'" Mr. John Moes, a concerned citizen said that "your freedom to smoke goes only as far as my nose and lungs. I want to be protected from an extension of your person. This bill grants freedom to non-smokers which the smoker has now." Ms. Barbara Cmehil, manager of the Village Inn Pancake House in Helena who has smoking and non-smoking sections, said that most people who come into the restaurant want to sit in the non-smoking section, and complain because there is not an adequate space for them. It cost her business over \$600 to clean the walls, ceilings, and windows of this unwanted smoke. "I as a restaurant manager very much support this bill." Ms. Andrea Molitor explained that when she is out to dinner she finds it very offensive to have cigarette smoke come across her steak. The non-smoking minority has been silent too long. I strongly support this bill and urge you to do the same. Ms. Sana Porte, a contact lense wearer, is in favor of the bill because she must wear her contacts many hours and day and when forced to be in a smoke filled room, it is like "having her eye balls scrapped with Brillo pads." She is technically blind, 20/800 vision, and has no alternative but to wear contacts. On behalf of contact lense wearers everywhere, she urged support of these bills. Ms. Della Powers, Saint Peters Hospital, claimed to be concerned with non-smoking areas that are currently too small. She hoped this legislation passes and that it will assure equal balances.

OPPONENTS: Mr. Ray Dormimick, Representing the Travel Division of the Montana Chamber of Commerce, opposed on the grounds that the legislation is vague, how do you define where, the size, smoke will drift into non-smoking sections, there are conflicts with employee hiring practices, the National Restaurant Association did studies indicating that non-smoking sections fill up last, and how can you get a waitress to work in this section when their mainstay of support is tips. There is also a problem with large groups, and he feels that it should be amended to offer proprietors of public places either the option of setting up areas, or efficient electron equipment installation to remove smoke from the air. Mr. Don Larson, co-owner of Jorgesons in Helena, opposed the bills because during his ownership he has had only five inquiries requesting seating in non-smoking sections. There is a problem of keeping non-smoking sections free from smoke, even with the most sophisticated ventilation systems, which the Health Department already requires. He advocated that government has no right to interfere in the running of a small business. Ms. Kathy Grande, representing Best Western Colonial Inn in Helena, feels that since the act of tobacco smoking is not illegal, that it is an encroachment on personal freedom, free enterprise, and unconstitutional

in nature. "We strongly suggest that discretion in serving the public be left on a voluntary basis." Mr. J. D. Lynch, representing Cascade Tavern Association claimed that it is hard to determine in alot of instances where a tavern leaves off and the restaurant begins. He cited as examples the Sudshut and the Haufbrau. Mr. Jim Hughes, representing Mountain Bell claimed that it would force them to create separate facilities and that he felt there would be problems with enforcement since ti was extremely voluntary in nature. Mr. Ralph Ferraro, owner of the Overland Express in Bozeman, felt that it would require many hours of planning to sit down to designate smoking areas. Mr. Steve Killhorn, a meat cutter from Bozeman representing himself and several of his customers, advocated that implementation as well as enforcement would be a big problem. In his capacity he does alot of back door deliveries and feels that from what he's seen the Health Department isn't doing a good job keeping up with health inspections, let alone giving them additional tasks to perform. Mr. Ray Wyerman, of the Montana Building and Constructions Trade Council, claimed that his construction workers will see this as additional government intervention into their personal habits. He said there will be some very harsh language used if this piece of legislation passes. Mr. Mike Messman, who has worked and lived in Utah for the Travel Lodge said that smoking and non-smoking sections were a joke because according to business they would shift them around a great deal. He recommended a do not pass measure on this bill. Mr. Tom Maddox, representing the Montana Association of Tobacco and Candy Distributors sees that what we are facing in our legislature is spending time on issues of very little significance (i. e., House Bill #235 & #304), versus spending time on more important issues. He sees the goal of the proponents of anti-smoking bills is to eliminate places where a smoker can enjoy smoking, and thus to help the smoker to quit. He feels that it has not been adequately proven that smoking or second-hand smoke causes cancer, and that smoking laws are not popular with the public. He went on further to state that a law without capacity for enforcement is worse than no law at all. Rep. Ellerd in his closing statement requested that they weren't asking alot, just a place to breathe free from smoke. I highly recommend that the committee examine both sides very carefully and their reasons behind their positions and give this bill a do pass.

CHAIRMAN

SECRETARY