

MINUTES OF THE MEETING

PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

March 5, 1979

The twenty-first meeting of the Senate Public Health, Welfare and Safety Committee met in Room 108 of the State Capitol Building at 1:00 p.m. on March 5, 1979.

ROLL CALL: All Committee members were present, except Senator Lensink, who arrived later in the meeting.

CONSIDERATION OF HOUSE BILL 235: House Bill 235 is an act to facilitate the designation of nonsmoking areas in public places and to provide for enforcement.

Witnesses supporting House Bill 235:

Rep. Bennett, House District 15
Leonard Bates, Montana Society for Respiratory Therapy
Gary Jensen, Pastor of Seventh Day Adventist Church
Dr. Mike Huntington
Dr. Anderson, Department of Health & Environmental Sciences
Phyllis Lefohn, Montana Chapter of American Assoc. of University Women
Vern Sloulin, Department of Health & Environmental Sciences
Gerald Neils
Clark Myers, Lewis & Clark County Health Department
Ed Mares, Montana Nurses' Association
Earl Thomas, Montana Lung Association

Opponents for House Bill 235:

Donald Larson, Jorgenson's
Mike Misowic, Helena Travelodge
Tom Maddox, Montana Tobacco and Candy Distributors
Phil Strobe, Montana Innkeepers' Association

Representative Ellerd, sponsor of House Bill 235, said the purpose of this bill is to protect the health of people in public places. He handed some proposed amendments to the Committee members. See Attachment "A." He referred to Section 2 of the bill and read the definition of public places, establishment, smoking and working area. Then he went through the new Sections 4, 5, 6, 7 and 8. He read an article from the paper on a telephone survey on questions posed by the editors of the Billings Gazette which showed that 66 percent of the respondents favored a ban on smoking in certain areas. He said that he didn't know this survey was being conducted, but it indicates how the public feels.

Dr. Bennett, representative from House District 15, spoke in support of House Bill 235. He said the bill is a courtesy bill. It extends the courtesy of not smoking in public places. This bill is also sort of a warning to people. It tells the people that there is smoke in the area, and it gives them a chance to avoid the area. This gives people who are suffering from health problems a chance to avoid the area. There is absolutely nothing in this bill that is going to harm anybody. He asked the Committee to recommend a do pass on House Bill 235.

Leonard Bates, Montana Society for Respiratory Therapy and Chief Respiratory Therapist at St. Peter's Hospital, spoke in support of House Bill 235. See Attachment "B."

Gary Jensen, pastor of the Seventh Day Adventist Church, said that he has worked extensively with the Five-Day Plan to Stop Smoking. With his work he comes in contact with a large number of people, and the survey does reflect the opinion of people. Not only is smoking obnoxious to people who do not smoke, it also poses health problems for people. He said he worked with a law similar to this in Colorado, and it does work. This bill is suggesting that consideration be given to both the smoker and non-smoker. The proprietor is given several choices in this bill. He sees the bill as a very equitable one and strongly supports the adoption by the Committee. He left copies of a brochure with the Committee showing that if others smoke around you, you smoke too. See Attachment "C."

Dr. Mike Huntington, Billings, said he represents about 200 physicians in the southcentral district on this bill. The scientific evidence for this bill comes from medical records and research from doctors who have nothing to gain but less patients. There are existing laws in 35 states. He handed the Committee a handout showing the toxic elements that are put out by the smoker. See Attachment "D." To the general public this means that it is usually just a transfer irritant, but to one in ten this is truly a health problem. He referred the Committee to a diagram in Attachment "E" showing what happens when noxious fumes enter the bloodstream. Because of these effects there are several litigations going on in this country from workers who cannot find a smoke-free environment.

Babies are even more susceptible to smoke than adults, but they cannot voice their discomfort. This bill would provide the equivalent of a traffic signal. Traffic signals are not considered an infringement on the public's freedom. See Attachment "F."

Dr. Anderson, Department of Health and Environmental Sciences, said the only reasonable objection to the bill has been that it will cost some money to enforce it. He thinks that anyone objecting to this should come up with a practical way of addressing it. If the expense becomes too much of a problem, then that can be addressed in the next session. The department would object to the proposed amendment 5 for monetary reasons. This proposed amendment would create the need for some kind of a dollar transfer to the department. Without this amendment, Dr. Anderson thinks the enforcement could be handled on the local level where it belongs. Therefore, he urged the Committee not to support amendment 5 but to support the bill.

Phyllis Lefohn, Montana Chapter of the American Association of University Women, and as an asthmatic who cannot stand to be in a smoke-filled room, spoke in support of House Bill 235. She also has a 7 year old son who is an asthmatic, and they have been forced to leave restaurants, stores, and meetings because of smoke. She hears cigarette smokers say that this bill will infringe on their freedom. They have a choice about smoking. She has no choice; she cannot breathe in a smoke-filled room.

Vern Sloulin, Department of Health and Environmental Sciences, is responsible for licensing of food establishments. He said that at the present time they prevent smoking in the food preparation area of the kitchen and have had problems with this. He thinks it is excellent to put kitchens in this bill because it supports what they are doing. They now contract with local health officers to enforce the smoking in the kitchen, and he thinks they can look at the smoking places in the restaurant.

Gerald Neils said that last February he suffered his second M. I. In June he had a triple by-pass. He has a degree in chemistry and explained how the hemoglobin cannot tell the difference between carbon monoxide and carbon dioxide. The inhalation of the tars of cigarettes has the effect of reducing the size of the capillaries and this increases the blood pressure.

Clark Myers, Lewis and Clark County Health Department, said they fully support this bill. However, there has been some concern about enforcement; and he referred the Committee to two of the amendments. These amendments are strictly to add some lower cost and ease of enforcement of this bill. He said that in a county where they don't have a sanitarian or local health officer, they would be in direct conflict with this law. The last amendment would address this. He asked the Committee to give a do pass to House Bill 235.

Ed Mares, Montana Nurses' Association, said he represents the largest segment of the health industry in Montana. It is his observation that a good number of their nurses are smokers, but it was not difficult to obtain their full support of this bill.

Earl Thomas, Montana Lung Association, stated that they provide a lot of educational materials about items that affect the lungs, and by far the most popular literature deals with smoking. Especially popular is their pamphlet dealing with the effect of smoke on the non-smoker. They have received a number of letters asking them to support this bill, and he is here today asking the Committee for their support.

Doug Olson, Department of Health and Environmental Sciences, said he has a question on proposed amendment 4. He thinks this would weaken the bill and would like the sponsors to address this. Chairman Rasmussen said that would be brought up during the time allowed for questions.

Donald Larson, Montana Tavern Association and owner of Jorgenson's, spoke in opposition to House Bill 235. He said they are interested in the welfare of the smokers, but they feel that any enactment such as this is an infringement on the businessman's freedom to conduct his business in the way that is most profitable. He realizes that cigarette smoke is offensive to some and damaging to others. This bill is quite unworkable because in a restaurant such as his he cannot see where designating a non-smoking area will answer the problem. They have the same ventilation in the whole area and feel they would have to have quite a gale going through to clean the air up to where it didn't both an asthmatic. They have tried to keep records of people who want a non-smoking area, and they have found they are in a minority. If this changes, then they would have to provide it. They want to stay competitive. They serve food in their lounge during the lunch hour, so they would have to put a sign up above the door which says this is a smoking area. To many this is a

a red light to stay out. He doesn't think this is proper in any society. He asked the Committee's indulgence in trying to run his business in a free enterprise system in the way he feels he should and urged a do not pass on this bill.

Mike Misowic, Helena Travelodge, said that they are opposed to this bill the way it is amended. One objection is the no-smoking in the kitchen. They have an area away from the food for their employees to smoke because they don't want them smoking around the customers. Their second objection is that they have a bar where food is served. Do they have to post that as a non-smoking area? A lot of people in bars do smoke.

Tom Maddox, Montana Tobacco and Candy Distributors, spoke in opposition to House Bill 235. See Attachment "G" for his testimony.

Phil Strobe, Montana Innkeepers' Association, spoke in opposition to House Bill 235. He said that all of the proponents testimony is based on the premise that smoking is only illegal if you smoke in public places. He thinks that it is unrational to impose this on the business sector when you don't pass it on the private sector. In order to have a meeting in this room today you would have to divide the room into a smoking and non-smoking room or designate at the door if it is a smoking or a non-smoking room. His association members would have to take their lobbies and designate an area where smokers and non-smokers could check out. For a banquet you would have to put up a sign. Do you want the proprietor to run around like a policeman and be sure people are in the right area. He thinks the Department of Health has been remiss to support this bill and not mention that enforcement is nearly impossible. It seems to him that the bill is unworkable. If you want to say Mr. Society that you don't smoke, then it would be no problem for the non-smoker. He suggested that the Committee take a long look at this bill.

Rep. Ellerd closed testimony by saying he gets a little disappointed with the testimony presented by the opponents. This bill is not asking anybody to change his habits or to harm anybody's industry. He doesn't care who smokes; the non-smokers just want an area to themselves. They feel people are entitled to some clean air if they want it. He said there was a lady from the Village Inn at the last hearing who said it works just fine. It won't work if people don't want it to work. The Department of Health didn't come in here remiss. These opponents represent the industry, not the smokers.

Rep. Holmes said that it seems to her that in any kind of intelligent planning you can divide an area to give people a chance to sit where they want to. She presented a non-smoking sign that can be put on a table and said proprietors are finding that when they start reserving non-smoking tables they have to keep increasing their space. This bill is not here by a small group of activists. This bill was passed in the House by 4-1/2 to 1 after it was amended. She said that she has had dozens of letters from people all over the state who say this bill is a deadly serious matter. They say that if it does not pass this session, they will put it on the ballot. She pointed out that if it goes on the ballot it will not be the watered-down version of this bill. This bill leaves the choice up to the owner as to whether he wants to designate a section or just put a sign on the front door. The policing just has to do with whether the sign is there or not. This bill is a courtesy bill. It will not make every room smoke-free. This bill does not enforce segregation. It says you have an area where the non-smoker can go if he wants to. This bill is usually sponsored by smokers who do not want the burden of making other people uncomfortable. This gives them an area where they can feel free to smoke.

Chairman Rasmussen asked the Committee members if they have any questions. Senator Ryan asked for clarification on just posting a sign at the front door. Rep. Holmes said that would include all entrances that the public uses. Senator Olson asked why the kitchen is brought into this bill when that is in another law. Rep. Holmes said the law reads in the area where food is prepared. The problem is that the employees just go to the other side of the kitchen and smoke and don't wash their hands before going back to handle the food. Senator Ryan asked Mr. Myers what he would do as a health officer to enforce this. He said he could respond by making sure signs were posted. Senator Himsl asked about a penalty. Rep. Holmes said she understands that the Department of Health already has the powers of injunction. Dr. Huntington said that in Minnesota this law has resulted in only one suit over the past four years. He talked to the state clerk, and she said most of this has been voluntary; and that is the intent of this bill. Senator Himsl asked for clarification on amendment 4 on page 5. Dr. Huntington said the purpose in striking prohibited is that the Department of Health is not to restrict people from smoking. Rep. Holmes said they changed this so that the enforcement would be on the sign instead of on the smoker. Senator Norman said the bill refers to two concepts and


asked if they want to keep the smokers away from the non-smokers or the non-smokers away from the smokers. Rep. Holmes said they want to isolate the non-smoker insofar as possible. Chairman Rasmussen asked if she felt there would be a fiscal note needed on this. Rep. Holmes said that there would be some cost in the starting up of the program. There are always certain costs that go along with any new enforcement procedure. However, the feeling is that this is so voluntary and there is so little enforcement required that not much would be required. Senator Ryan asked about Mr. Maddox's statement that there had never been a public hearing on the amended bill. Rep. Ellis said the bill had a fair hearing. There were some amendments made to try to put the bill in a workable order. Mr. Maddox was present when some of the changes were being made. It did come out on an adverse committee report and was overturned on the floor.

The hearing on House Bill 235 was closed at 2:35 p.m.

CONSIDERATION OF HOUSE BILL 810: House Bill 810 is an act to accelerate the periodic agency evaluation of the Board of Sanitarians.

Since there was no one present to testify for or against House Bill 810, Senator Olson moved that the Committee table the bill. The motion passed unanimously.

ADJOURNMENT: There being no further business discussed, the meeting was adjourned at 2:40 p.m.



SENATOR A. T. RASMUSSEN,
CHAIRMAN

SENATE Public Health COMMITTEE

BILL 235

VISITORS' REGISTER

DATE 3-5-79

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPO
Kana Behnemann				
Mary E Thompson				
Patty Krister				
Sandy Rogers				
Shelia Sharp				
Donald W. Larsen	M.T. Association	235		✓
M. E. Maurer	Holens Travelodge	235		✓
Art Kussman	Myself	235	X	
Leonard Bates	Mint. Soc. for Resp. Th.	235	✓	
Guy Jensen Pastor	Sabbath-day Observant	"	✓	
Phyllis Leikohn	AH/IL, nurse	235	✓	
Michael Dahlem	University of Montana	235	✓	
Gerald Neils	Myself	"	✓	
Vernon Slouma	D.K.E.S.	235	—	
W F Barnett Jr	Dist 15 L.	235	✓	
Gladys Baggett	Myself	235	✓	
Angie & Earl	D.K.E.S.	235	✓	
John Anderson MRS	"	"	✓	
Jerome T Anderson	M.M.A.	235	✓	
Clark MYERS	HC Co Health dept	235	✓	
James E. Brown	Myself	235	✓	
Jan Brown	Self	235	✓	

DATE 2/14/79

COMMITTEE ON

Public Health

House BILL NO. 255

VISITOR'S REGISTER

[illegible]

PUBLIC HEALTH COMMITTEE

Date 3-5-79

[illegible]

Alfred Lincoln

3/5/79

1851 9th Ave

440 - 638C

Montana Taper Case

1/B-2.35

✓

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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

P. STROPE

DATE:

3-5-79

ADDRESS:

HELENA

PHONE:

442-6570

REPRESENTING WHOM?

Mont INDIANERS ASS.

APPEARING ON WHICH PROPOSAL:

SB 235

DO YOU: SUPPORT?

AMEND?

OPPOSE?

X

COMMENTS:

This bill is designed to pass
into law a statute that
is unenforceable. Would
not a resolution be more
appropriate?

NAME: Tom Mardak DATE: 5 March 1979

ADDRESS: 1777 Le Grande Canyon Blvd
P.O. Box 123
Helena MT 59601

PHONE: 442-1582

REPRESENTING WHOM? National Association of Tobacco and
Candy Distributors

APPEARING ON WHICH PROPOSAL: H-B 235 as amended

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS: Submitted in full to each
congressman and Secretary

ATTACHMENT "A"

PROPOSED AMENDMENTS TO HB-235

1. Page 1, line 14.

Following: "areas"

Insert: "in some public places"

2. Page 4, line 25.

Following: "with"

Insert: "easily readable"

Following: "signs;"

Insert: "or"

3. Page 5, line 2.

Following: "post"

Insert: "easily readable"

4. Page 5, lines 11 through "prohibited" on line 12.

Strike: lines 11 through "prohibited" on line 12 in their entirety

Insert: "'No smoking" signs in certain places. No smoking signs shall be conspicuously posted"

5. Page 6, lines 23 and 24.

Strike: lines 23 and 24 in their entirety

Insert: "enforced by the department. The department may contract with a local board of health to enforce provisions of [this act]."

ATTACHMENT "B"

TESTIMONY SUPPORTING HB 235

A typical cigarette smoker inhales only 1/7 of his cigarettes' smoke, while the other 6/7 are given off into the atmosphere as side stream or secondary smoke. In a room 10 feet by 15 feet with typical air circulation (an average office), a cigarette smoked in four minutes will raise the level of tar particulates to 36 times the level considered safe according to clean air standards. (Science, Vol. 182; p. 336)

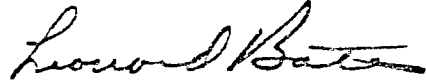
Studies have repeatedly shown that in enclosed areas where tobacco is being smoked, CO levels reach 50-80 ppm. The standard set by the federal government for a 40 hour work week is 50 ppm. (The Health Consequences of Smoking, a report to the Surgeon General: 1972; pp 121-128)

In a smoke filled room, a non-smoker can take into his body the equivalent of one cigarette per hour in CO. (Lancet Vol. 1, 1973; p. 576)

Secondary smoke causes a notable health hazard for people with asthma, hay fever, sinusitis, bronchitis, heart disease, emphysema, and allergies. It also poses a hazard to relatively healthy people. (Ibid: pp. 121-131)

As an individual with healthy lungs, I find other people's smoke irritating, but I am more concerned with my patients who find it a hazard to their health. I have patients who must be treated for wheezing after conducting business in a public building. For those of you concerned with the rising cost of health care, these treatments are being paid for by Medicaid, Medicare and private insurance.

In view of this evidence, I give my whole hearted support
to passage of House Bill 235.



Leonard Bates, RRT
Chief Respiratory Therapist
St. Peter's Community Hospital
2475 Broadway
Helena, MT 59601

Also representing:

Montana Society for Respiratory
Therapy
1004 Division
Billings, MT 59101

Smoke Signals

*If others around
you smoke - -*

You Smoke Too!

Smoking has been called the leading cause of preventable disease today. And more and more it is becoming evident that smoking may also increase disease among nonsmokers who are exposed to the polluted air around smokers.

All nonsmoking travelers who use public transportation to any extent know well the discomfort or downright distress brought about by smokers in planes, buses, or trains. All eaters-out who patronize various restaurants can recall the unpleasant mixture of smoke and food they are called on to endure. Some workers in business offices must breathe air heavy with exhaled smoke or smoke rising from "idling" cigarettes.

It has been thought that the extent to which such nonsmokers actually suffered from their environment was limited to passing discomfort or an occasional allergic reaction. But this is not the whole story.

"Nonsmokers sharing the environment of smokers may also be sharing some of the carcinogenic risks associated with tobacco smoke," says the *Medical Tribune* in reporting research done by a team in the University of Perugia in Italy.

Dr. Giuseppina Scassellatti-Sforzolini, head of the team, found the tar and nicotine content of inhaled cigarette smoke to be less than that from uninhaled smoke—that is, smoke from an "idling" cigarette.

In analyzing the smoke content in tar and nicotine of some forty cigarettes, it was found that while the risk to the nonsmoker was not

as great as that to the smoker, yet there was "convincing evidence that the smoke produced from a cigarette where it is not being puffed does contain appreciable amounts of nicotine and tar."

As an example, these researchers reported that one Virginia tobacco cigarette produces, on the average, 11.8 mg. of tar and 0.8 mg. of nicotine in inhaled smoke and 22.1 mg. and 1.4 mg. respectively in smoke from the idling cigarette. It is emphasized that these are the amounts produced by only one cigarette.

The impact on the nonsmoker comes about as the result of the relative times the cigarette smoke is being inhaled and the cigarette is "idling." In the research study "the average inhaling time for a single smoke is only 24 seconds. Idling time averages about 12 minutes."

Also it was pointed out that filter cigarettes produce an even higher ratio of room-air concentration of nicotine and tar than do non-filter cigarettes and that in the room the carbon monoxide is always present in "very high quantities."

The extent of risk to the nonsmoker obviously depends on the cubic feet in the space involved where he is forced to breathe the smoke, and on the number of cigarettes to which he is exposed. "Three smokers in a Fiat 500, for example," says Dr. Scassellatti-Sforzolini, "will obviously constitute something of a menace to a fourth, nonsmoking passenger."

Some claim that any discomfort to non-

Character is not made in a crisis; it is only displayed then.

POISONS IN SIDESTREAM SMOKE

As listed in Article entitled "One man's smoke is another man's poison," by Ron Beldeck, in PLAIN TRUTH, Week Ending November 1, 1975

COMPONENTS OF SIDESTREAM SMOKE

HYDROQUINONE	METHACROLEIN
METHYL ALCOHOL	METHYLAMINE
NICKEL COMPOUNDS	PYRIDINE
CARBON DIOXIDE	CROTONONITRILE
DIMETHYLAMINE	ENDRIN
ETHYLAMINE	FURFURAL
CADMIUM	CARBON MONOXIDE
METHYL NITRITE	AMMONIA
FORMALDEHYDE	HYDROGEN SULFIDE
BENZO(A)PYRENE	NICOTINE
DDT	ETHANE
ACETYLENE	METHANOL
NITROGEN DIOXIDE	ACETONE
METHYL CHLORIDE	PHENOL
CRESOL	METHANE
ISOPRENE	PROPANE
ACROLEIN	ACETALDEHYDE
ETHYLENE	METHYL ETHYL KETONE
TAR	HYDROGEN CYANIDE
METALS	HYDROCYANIC ACID
NITRIC OXIDE	ACETONITRILE
ACRYLONITRILE	BENZENE 2, 3
BUTADIONE	BUTYLAMINE

SOME STATISTICS :

Sidestream smoke has higher concentrations of noxious compounds than the mainstream smoke inhaled by the smoker. Some studies show there is:

TWICE as much TAR and NICOTINE
THREE TIMES as much 3-4 BENZPYRENE (suspected cancer-causing agent)
FIVE TIMES as much CARBON MONOXIDE (which robs blood of oxygen)
FIFTY TIMES as much AMMONIA

The Current allowable CONCENTRATION OF CARBON MONOXIDE in industry is 50 ppm (parts per million).

Federal Air Quality Standards for the OUTSIDE AIR is average of 9 ppm.

One study showed that smoking seven cigarettes in one hour, even in a ventilated room, created CARBON MONOXIDE levels of 20 ppm. In seat next to smoker, level shot up to 90 ppm - ALMOST TWICE THE MAXIMUM set for industry.

In the same study - smoking ten cigarettes in an enclosed car produced CO (CARBON MONOXIDE) levels up to 90 ppm. The CO level in the blood of nonsmokers, as well as smokers, in the car DOUBLED.

HYDROGEN CYANIDE - a poison that attacks respiratory enzymes: concentration in cigarette smoke is 1600 ppm. Levels ABOVE 10 PPM considered DANGEROUS.

NITROGEN DIOXIDE - irritating gas that can damage lungs: concentration in cigarette smoke is 250 ppm. 5 PPM considered DANGEROUS.

CADMIUM - metal poisonous in high concentrations: Though only minute amounts are inhaled with one cigarette by the smoker, the metal builds up in the body in almost direct proportion to number of cigarettes smoked. ACCUMULATES IN lungs, liver and kidneys. It STAYS in the LUNGS FOREVER, no matter how little you inhale. Some research has shown that THERE IS EVEN MORE CADMIUM IN SIDESTREAM SMOKE THAN IN INHALED, MAINSTREAM SMOKE.

CIGAR AND PIPE SMOKE is even more irritating to eyes, nose and throat and breathing passages than cigarette smoke. It has higher levels of damaging chemical compounds like PHENOL and BENZO(A)PYRENE, etc.

7/2/11/1979 Billings Gazette

COMMENT from people you know

Cancer specialist sees sad results of smoking

By MICHAEL C. HUNTINGTON, M.D.

At a time when our citizens are developing a new awareness of the hazards of smoking and of breathing smoke-filled air, we don't need to be reminded of smokers who have lived to a ripe old age. "I know a guy 90-years-old who smoked since he was 12," a classic defense used by those who rationalize a habit they can't break.

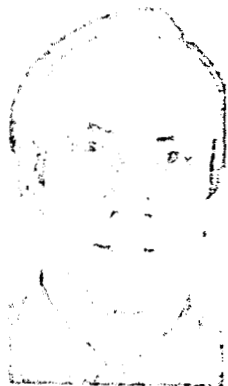
I am a radiation therapist in Billings. One in four of the patients I treat each day has developed a cancer because of tobacco use. The cure rate is 20 per cent or less for cancers that are induced by smoking. By comparison, the cure rates for other cancers average 40 per cent and vary up to 100 per cent for specific tumor types.

SMOKING IS A FORM OF RUSSIAN roulette; only a certain number of players will be killed. About 230,000 persons in Montana smoke regularly; 360 of these smokers will needlessly die this year of a cancer induced by their smoking. We lose 720 additional Montanans each year to needless death from smoking-induced heart disease or lung disease.

But those who die in the smoking contest are not the only losers. Players may survive only to suffer chronic illness, such as emphysema, causing loss of job or mobility. Family, friends and others close to the smoker may suffer tremendous loss with either his death or his disability.

WHAT ABOUT THE STALWART smoker who seems perfectly healthy despite his smoking? Then, nobody loses — except those who must breathe the air he pollutes. The person sitting next to the smoker is exposed to a concentration of smoke particles as high as 90 parts per million. This is twice the level acceptable by industrial safety standards.

If the person adjacent the smoker has asthma, which affects an estimated 30,000 Montanans, severe



Dr. Michael C. Huntington came to Billings 4½ years ago as a radiation therapist. He is a native of Pasadena, Calif., attended Oregon State University and was graduated from the University of Oregon School of Medicine in 1967. After his internship he served two years in the army and took a three-year residency in radiation therapy before coming to Billings.

wheezing and shortness of breath can be precipitated by the secondhand smoke. If the person has heart disease and angina pectoris, which affects perhaps 10,000 Montanans, chest pain may be triggered by the twice-normal carbon monoxide level in his bloodstream.

CHILDREN LIVING IN A HOME with smokers develop two times the average amount of lung illnesses. Non-smoking women married to smoking husbands die an average of four years earlier than those whose husbands don't smoke.

The Yellowstone Valley Medical Society, deeply concerned about the increasing number of tobacco related illnesses, has requested the Montana Legislature to protect its citizens from involuntarily inhaling tobacco fumes in public enclosures.

I, as a radiation therapist who sees daily the sad results of smoking, urge every person not to smoke, for the sake of himself and the sake of persons close to him.

RESTRICTION OF SMOKING IN PUBLIC ENCLOSURES

Purpose: To urge Montana State Representatives and Senators to support legislation which would restrict smoking in public enclosed areas.

Rationale:

1. One-third of American adults regularly smoke tobacco products.
2. The remaining 2/3 of Americans, for health reasons or otherwise, have chosen not to smoke.
3. One person smoking in an enclosed area forces adjacent non-smokers to inhale smoke.
4. The concentration of smoke particles over a seat next to a smoker can reach 90 PPM, two times the level considered acceptable for industrial safety standards.
5. The carbon monoxide level in the blood of a person seated next to a smoker may reach two times normal.
6. Children living in a home with smokers develop two times the average amount of lung illnesses.
7. Approximately 30,000 Montanans have asthma attacks precipitable by tobacco smoke.
8. Non-smoking women married to smoking husbands die an average of four years earlier than those whose husbands don't smoke.
9. Persons with angina pectoris experience a significant reduction in exercise tolerance (chest pain occurs) when they passively breathe tobacco smoke: in well ventilated rooms a 22% reduction in tolerance; in unventilated rooms, a 38% reduction.

Conclusion: Tobacco smoke contacting the eyes and lungs of non-smokers is usually an annoyance. Evidence is accumulating that this smoke is not only an annoyance but is also a health hazard. Please support this year's legislative proposal to restrict smoking in public enclosures. The majority of Montanans wish to conduct public business and pleasure without jeopardy to their comfort and health.

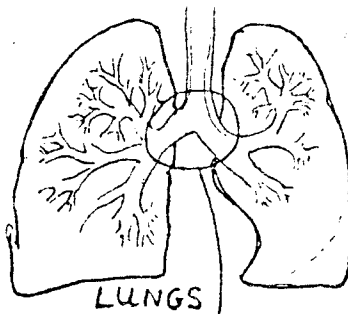
REFERENCES:

1. Adult Use of Tobacco, 1975, U.S. Dept. of Health, Education and Welfare, Public Health Service, Atlanta, Center for Disease Control, Bureau of Health and Education, 1976, p. 8.
- 4-5 Russell, M.H., Cole, P.V.: Absorption by non-smokers of carbon monoxide from room air polluted by tobacco smoke. Lancet. 1:576-579, 1973
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8. Miller, Gus H.: Edinborough State College, Pittsburg, Penn., UPI, 9/23/78.
9. Aronow, Wilbert S.: Effect of passive smoking on angina pectoris. New England Journal of Medicine. 299(1):21-24, 1978.

CAUSES OF AIRWAY SPASM AND OBSTRUCTION

Common causes of hyperreactivity

Chronic bronchitis
Asthma
Viral infection



LUNGS

Normal air passage

Normal mucous membrane

Normal trachea and bronchi

Cartilage

Air passages

Hyperreactive airway
Edema
Constriction
Hypersecretion of viscid mucus

Swelling (edema) of mucous membrane

Thick mucus plugging airway

Thick mucus

Provocation of a hyperreactive airway by such irritants as cold air, noxious fumes, upper respiratory infection, and allergens may then cause obstruction and bronchospasm.

RE: HB 235 5 MARCH 1979

TO: STATE SENATORS

FROM: MICHAEL C. HUNTINGTON

BRUCE L. ANDERSON MD

DAVID B. MYERS MD

BILLINGS, MONTANA

INVOLUNTARY INHALATION OF TOBACCO SMOKE IS LIKELY TO CHANGE THIS...

FOR OVER 30,000 MONTANANS,

INTO THIS.

SENATOR:

PLEASE VOTE IN FAVOR OF HB 235, MONTANA'S INDOOR CLEAN AIR ACT.

No smoking in restaurants — the idea catches fire

By Ward Morehouse III
Staff correspondent of
The Christian Science Monitor

New York

Good food, an attractive atmosphere, and fresh (not smoke-filled) air — this is what more and more Americans are enjoying in restaurants as a growing number of states and local communities, prodded by antismoking advocates, adopt laws to protect nonsmokers' rights.

For example:

- Utah regulations prohibiting smoking in public areas, including restaurants, became effective Sept. 14, 1976.

- In the face of strong opposition from restaurant associations, the Board of Health of Rockland County, New York (just north of New York City) recently adopted a new law prohibiting smoking in about 500 restaurants.

- New York City health department officials are eager to broaden the city's no-smoking statutes to include restaurants. But action on this is not expected until the city starts to bail itself out of its current fiscal woes.

- The Minnesota Clean Air Act, adopted in June, 1975, is the strongest of the nation's no-smoking laws. It prohibits smoking, except in designated areas, in "any enclosed indoor area used by the general public or serving as a

place of work, including . . . restaurants, retail stores, offices. . . ."

In 1976, 19 states enacted 23 bills into law dealing with smoking and tobacco products. In the category of putting limitations on smoking in sports arenas, stores, and elevators, among other places, 28 states introduced legislation last year, up substantially from 1975.

But, many of the no-smoking laws are not being well enforced due to budget and manpower problems.

The Utah state Assembly, which has just wound up its legislative session, rejected a bill to tack a penny tax on each pack of cigarettes.

★Please turn to Page 30

From page 1

No smoking in restaurants catching on

The revenue would have been used for enforcement of the state's no-smoking laws.

Minnesota's tough no-smoking law is violated constantly, even according to restaurant spokesmen.

"It would be disastrous if they tried to enforce it," says Chum Bohr, a spokesman for the Minnesota Restaurant Association. Mr. Bohr says the Association does not plan to fight the law in the courts unless enforcement becomes stricter. "We're letting it [the law] sit right now," he said. "Basically, it's an unenforceable law."

A National Restaurant Association (NRA) survey of restaurants in Minnesota made after that state's law took effect showed 65 percent of the restaurants surveyed opposed the new law, 8 percent liked it, and the remaining ones did not care one way or the other.

The NRA is flatly opposed to laws which restrict smoking because the association says the laws restrict free enterprise.

And NRA spokesman Jerry Greenfield feels the increasing number of state laws restricting

smoking are "more of a function of no-smoking advocates than public sentiment."

But Lowell Bellim, a professor of public health at Columbia University here and former New York City health commissioner, says the New York City statutes prohibiting smoking in elevators and supermarkets are "only step one. I want to get a law to include restaurants."

"I'd like to see the law broadened, but we're not sure the time is right," says Frank Linderman, New York City's director of public health education. Mr. Linderman explains that at a time when the city is desperately trying to improve its business climate it may be wise to postpone broadening smoking restrictions for restaurants.

Tobacco industry spokesmen agree with many in the restaurant industry that antismoking laws are unjust. William Dwyer, a spokesman for the Tobacco Institute, says attempts to restrict smoking in public places "are just one more example of how our individual freedoms are being taken away."

Abstract: from a Sept 78 issue of the Billings Gazette. A statistician from Edinboro State Coll reports that non-smoking wives of smokers live 4 less than wives of non-smokers.

Smokers' wives lose 4 years, figures show

PITTSBURGH (UPI) — A statistician has completed a study indicating that non-smoking women married to smoking husbands die an average of four years earlier than those whose husbands don't smoke.

Gus H. Miller, statistician at Edinboro State College, says the study proves that so-called "passive smoking" is harmful.

The Tobacco Institute, however, discounts Miller's findings as "bordering on non-science."

Miller, long an anti-cigarette advocate, obtained death records for Erie County, Pa., for the years 1972-1975.

Miller and his assistants interviewed survivors of the deceased and recorded detailed information on smoking habits, work habits, general health and weight, and spouses' smoking habits. The study only considered husbands who were continuous smokers, not those who started late or quit early.

He computed the average age at death for wives of non-smoking men at 78.8 years, compared with 74.7 years for wives married to smokers.

↑
ABSTRACT: FROM A 1977 ISSUE OF THE CHRISTIAN SCIENCE MONITOR.

UTAH, NEW YORK AND MINNESOTA HAVE ENACTED LAWS TO DESIGNATE SMOKING AND NON-SMOKING AREAS IN RESTAURANTS AND OTHER PUBLIC PLACES. THE NATIONAL RESTAURANT ASSOCIATION AND THE TOBACCO INSTITUTE FEEL THAT THE LAWS ARE UNFAIR TO THEM.

COMMENT: HOUSE BILL 235 IN MONTANA REQUIRES ONLY THAT PUBLIC ENCLOSURES HAVE SMOKING AND NON-SMOKING AREAS DESIGNATED. NOTE THAT NEITHER THE BUSINESS OWNER NOR THE SMOKER IS CULPABLE FOR ALLOWING SMOKE TO EXIST IN THE NON-SMOKING AREA.

TOTAL BAN ON SMOKING ORDERED TO PROTECT ALLERGIC OFFICE WORKER

In a decision whose reverberations are already being felt around the country, a judge has found that ambient cigarette smoke can create serious health problems for those with particular susceptibilities, and has banned all smoking in a New Jersey Bell Telephone company office.

Judge Gruccio, after a detailed examination, found the evidence "*clear and overwhelming.*" He found as a matter of fact and law that:

Cigarette smoke contaminates and pollutes the air creating a health hazard not merely to the smoker but to all those around her who must rely upon the same air supply. The right of an individual to risk his or her own health does not include the right to jeopardize the health of those who must remain around him or her in order to properly perform the duties of their jobs.

Reaffirming the well-established legal principle that "*an employee has a right to work in a safe environment,*" the Court said that this right can and should be enforced by an injunction against all smoking if necessary.

The judge was particularly impressed that the company prohibited smoking around its computer. Noting that *damage to human beings is more serious*, he argued that "*a company which had demonstrated such concern for its mechanical components should have at least as much concern for its human beings.*"

The winner of this historic and precedent-setting decision was Mrs. Donna Shimp, a telephone company worker, whose severe allergic reaction to cigarette smoke made work in the office intolerable. The legal action was handled largely by her local attorneys, with some assistance from ASH.

ASH Executive Director John Banzhaf has suggested that workers with a particular susceptibility should bring this decision to the attention of their employers and, as appropriate, their unions. Although such drastic relief as a total ban on smoking may be warranted only where the reaction

to ambient smoke is particularly severe, the decision may provide strong ammunition for employees to ask for other less-sweeping measures to protect their health. These might include:

- * restrictions on smoking in elevators, small enclosed work areas, etc.
- * separate no-smoking sections in cafeterias, auditoriums, large work areas, etc.
- * the right to post "Thank You For Not Smoking" signs on desks, etc.
- * increased ventilation and alternative seating arrangements

On the other hand, for those who have a serious problem from ambient tobacco smoke in the workplace, the Shimp decision will provide powerful ammunition and guidance in bringing their own legal action.

★ ABSTRACT: FROM ASH NEWSLETTER, VOL. VII, No. 1 JAN-FEB, 1977:

A NEW JERSEY JUDGE DECIDED IN FAVOR OF A BELL TELEPHONE EMPLOYEE WHO REQUESTED A SMOKE-FREE ENVIRONMENT IN WHICH TO WORK. JUDGE GRUCCIO WAS PARTICULARLY IMPRESSED THAT THAT THE COMPANY PROHIBITED SMOKING AROUND ITS COMPUTER BUT NOT AROUND HUMANS WHO ARE ALSO SENSITIVE TO THE SMOKE.

NOTE: -

Business paying heed to nonsmoker rights

By Guy Halverson
Business and financial correspondent of
The Christian Science Monitor

Washington
For many U.S. firms, restrictions on smoking practices during work hours have stepped up business productivity and improved employee relations.

Yet, according to key sources with groups seeking to prevent — as well as advocate — smoking practices, business efforts to extend smoking bans are expected to trigger major legal tests based on "individual" vs. "group" rights during the months ahead.

For many firms, according to some experts, there will be a "time of decision": Should they further restrict smoking for employees and enlarge nonsmoking rights for clients?

• While a number of businesses are seeking to broaden prohibitions on employee smoking during work hours, many other firms also are seeking to expand "anti-smoking" privileges for clients. One example: The San Francisco based Hyatt Corporation now is setting aside rooms and, in some cases, entire floors as non-smoking areas in their 50 or so hotels.

• The Magic Pan Crêperie during the past several months has set aside nonsmoking sections in all of their 50 or so restaurants around the United States.

• Since 1973, 30 states and the District of Columbia have adopted restrictions on smoking in public places, laws that now affect such private establishments as restaurants, medical and private health offices, and transportation firms, among other businesses.

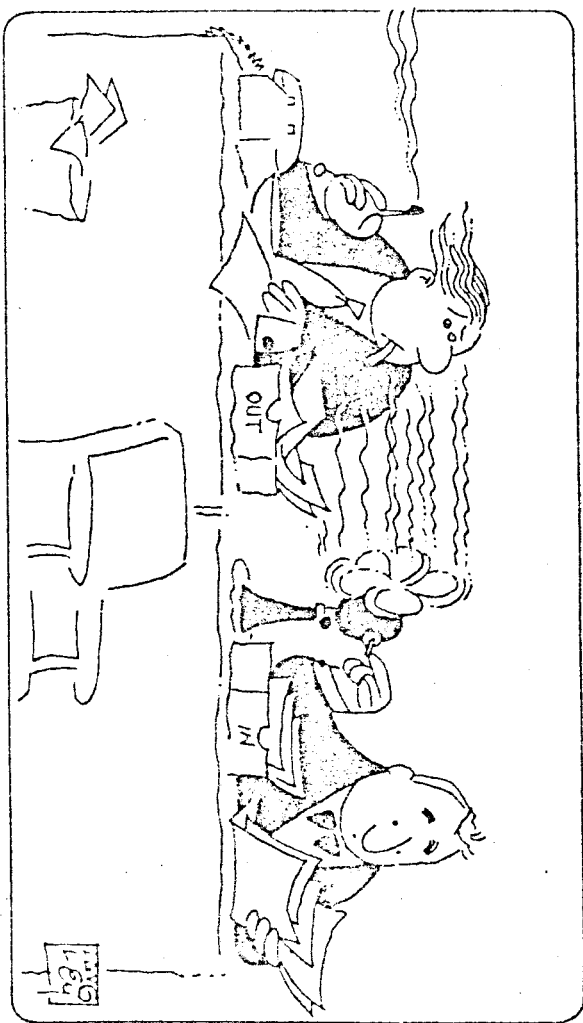
• The Civil Aeronautics Board (CAB) currently is examining a proposal that could tighten smoking restrictions on the nation's airlines. Yet, for its part, the Tobacco Institute, fighting back hard, is seeking to remove or modify current CAB rules restricting smoking on planes.

Whatever the case, anti-cigarette groups now are pointing to a number of case studies to argue that restrictions on employee-smoking practices tend to boost work habits.

For example, employees of the Leslie Manufacturing & Supply Company of Bloomington, Minnesota, recently tested a program whereby workers had money deducted from their paychecks on a regular basis. If they stopped smoking over a period of time, the company would match the amount deducted.

Less hassle

"The whole atmosphere was better around here, and everyone helped each other," says a company spokesperson. "The nonsmokers said they could work better, and most of the



smokers cut back sharply."

A similar program at Standard Glass Company of Phoenix, Arizona, has proven equally successful according to Eugene Kadish, company president. There, beginning in early 1975, up to \$30 a month was deducted from the paycheck of any employee voluntarily participating in the program. At the end of the year the company would double the amount if the employee had stopped smoking.

According to one company official, results were impressive. "There is a better feeling in the office," says the official, "less hassle" from competing smokers and nonsmokers, and perhaps an improved work record. The official

notes that smoking during work hours, with some employees demanding the right to do so and others vehemently opposed, in many respects was more of a "management problem" than a "health" or "work" problem. Now, the official says the anti-smoking program has removed much of that contention.

Behind the anti-smoking campaigns now under way in many businesses is a factor that company executives are somewhat reluctant to discuss — several state court decisions recognizing the right of nonsmokers to work in smoke-free environments. Such decisions, it is noted here, could have important repercussions for firms both in hiring and staffing.

ABSTRACT: BUSINESSES IN GROWING NUMBERS ARE HEEDING EMPLOYEE AND CLIENT

REQUESTS TO WORK AND DO BUSINESS IN A SMOKE-FREE ATMOSPHERE.

IN MEETING THESE REQUESTS MANAGEMENT AND STAFFING PROBLEMS

DO OCCUR, BUT THE LESSENING OF SMOKER--NONSMOKER CONFLICTS

SEEMS TO IMPROVE EMPLOYEE MORALE AND WORK HABITS.

Poll

FROM PAGE 1



**Banning smoking
in public places
except in designated
smoking areas**

In Favor — 66
Opposed — 28
No Opinion — 5
Not Familiar — 1

SMOKING BAN Almost everyone had a view on whether smoking "should be banned in public places except in designated smoking areas." Sixty-six percent of the respondents favored such a ban, with only 28

percent opposed. Only 5 percent expressed no opinion and less than 1 percent said they were unfamiliar with the smoking issue.

The measure enjoyed its greatest support among respondents under age 35 or over 65.

The smoking ban was more popular in the Mountain counties (70-25), than in the Plains counties (63-31).

A bill to limit smoking in public has cleared the House and awaits action by the Senate.

ABSTRACT: A POLL OF MONTANANS, COMMISSIONED BY FOUR MAJOR NEWSPAPERS IN THE STATE LAST WEEK, REVEALED THAT 66% OF RESPONDENTS FAVORED RESTRICTION OF SMOKING IN PUBLIC PLACES.

ATTACHMENT "F"

SPEECH PRESENTED BY DAVID M. BURNS, M.D., MEDICAL STAFF DIRECTOR, CLEARINGHOUSE FOR SMOKING AND HEALTH, BUREAU OF HEALTH EDUCATION, CENTER FOR DISEASE CONTROL, ATLANTA, GA. 30333, AT THE WORKSHOP ON RIGHTS OF NONSMOKERS, CONDUCTED BY NATIONAL INTERAGENCY COUNCIL ON SMOKING AND HEALTH, NEW YORK, N. Y., HELD AT THE UNIVERSITY OF MARYLAND, COLLEGE PARK, MD., JANUARY 11, 1975.

SCIENTIFIC EVIDENCE ON THE HAZARDS OF INVOLUNTARY SMOKING

Before presenting the scientific evidence on the hazards of involuntary smoking, let me first explain what involuntary smoking is. Involuntary smoking is the term we are now using to mean the exposure of nonsmokers to the atmospheric pollution caused by cigarette smoke. It can be considered smoking because the nonsmoker is exposed to many of the same substances in cigarette smoke that the smoker is exposed to, and it is involuntary because the exposure occurs as a part of the necessary act of breathing.

Before discussing the effects of cigarette smoke on nonsmokers, we should briefly consider the effects on the smoker. Ninety percent of the lung cancer, thirty percent of the heart disease, and ninety percent of the chronic bronchitis and emphysema in this country are caused by smoking. In addition, cigarette smokers have more frequent and prolonged colds and miss more days from work due to respiratory illness than nonsmokers. Pregnant women who smoke have smaller babies and are more likely to have stillborn children than nonsmoking women.

However, these problems occur in smokers as a result of their voluntary choice to smoke, and we are now concerned with the effects of cigarette smoke on the nonsmoker.

First, let us realize that the smoke inhaled by nonsmokers in cigarette smoke-polluted environments differs in composition from the cigarette smoke inhaled by smokers. It differs primarily for

some of the data on which these rulings are based.

Several governmental agencies combined to study the atmosphere on 20 military and 8 commercial flights where smoking was unrestricted. These studies determined that from 45 to 57 percent of the passengers were smokers and that the levels of pollutants in this environment were very low. Carbon monoxide never exceeded 4 ppm and nicotine and total particulate matter were almost unmeasurable. Despite these very low levels of measured pollutants, over 60 percent of the non-smoking passengers stated that they were annoyed by the smoking on the flight; 73 percent of the nonsmoking passengers on the commercial flights and 60 percent on the military flights suggested remedial action such as segregating the smokers. The percentage of people annoyed was even higher among those passengers who had a history of respiratory problems. Two points can be made from this study: First, a majority of nonsmokers expressed a desire for change, and second, measured low levels of pollutants do not necessarily reflect individual exposure. Persons sitting next to the smokers may have far greater exposure than would be expected according to measurements taken many feet away.

A second study was done on ventilated buses where smoking was simulated by burning 23 cigarettes (one in every other seat) to represent unrestricted smoking, and 5 cigarettes were burned at the back of the bus to represent smoking restricted to the rear 20 percent of the bus. In the unrestricted smoking situation carbon monoxide levels at the driver's seat reached 33 ppm and four of six persons on the bus complained of eye irritation. In the restricted smoking situation the carbon monoxide levels at the driver's seat were only 18 ppm and none of the six persons on the bus complained of eye irritation, even those seated in the rear 20 percent of the bus.

heart disease there is some evidence that intermittent exposure to carbon monoxide together with a high cholesterol diet produces atherosclerosis. However, this evidence has been obtained in animal studies and it is always difficult to determine what significance animal experiments have for human disease.

The last area we will consider is the effect of cigarette smoke environments on people with pre-existing heart and lung disease. It has been well established that there is a significant excess mortality among people with chronic lung disease during periods of exceptionally severe air pollution. However, there is very little evidence as to the effect of intermittent exposure to the type of substances that are found in involuntary smoking situations.

The effects of carbon monoxide on heart disease have been well studied. Coronary artery disease is an illness that results from a narrowing of the blood vessels that supply the heart with oxygen. When there is significant narrowing, the heart no longer receives sufficient blood to work at its maximum. Consequently, when it is stressed (e.g., by exercise) beyond the capacity of its blood supply, the chest pain referred to as angina pectoris may develop. The most important substance supplied to the heart by the blood is oxygen. The oxygen carried by the blood is bound to hemoglobin and carbon monoxide competes with oxygen for the hemoglobin binding sites. Thus, exposure to carbon monoxide reduces the amount of oxygen a given quantity of blood can carry. Given this information it seemed reasonable to Dr. Aronow in California that people with angina pectoris would develop chest pain after less exercise when they had been exposed to CO than when they had not been. He studied a group of his patients with angina pectoris after they had traveled on the Los Angeles freeway where they

NAME TOM MADDUX House Bill No. 235 as AMENDEDADDRESS P. O. Box 123
Helena MT 59601 DATE 5 March 1974WHOM DO YOU REPRESENT Montana Association of Tobacco and Candy DistributorsSUPPORT _____ OPPOSE XXX AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

THERE ARE MANY REASONS WHY HOUSE BILL 235 SHOULD NOT PASS.

N O T A primary reason is that House Bill 235 is not needed.
NEEDED In each Montana legislative session bills to segregate our people based on whether they enjoy smoking, or not, have been defeated. Why then are we forced to devote to such proposals so much time and expense which should be used for all of the important and meaningful legislation? It is a shame but true that there is one small group of activists who want to change the rest of us to be like them. It would be a shame if we allowed a tiny handful of intolerant anti-smokers, and a small group of discourteous smokers, to break up the enjoyable harmony we find in each other's personal life style.

Speaking for the smokers, we don't know what to do about these anti-smokers except to treat them all with the courtesy and kindness which we deserve from them. This works with our friends, the non-smokers; it may work also with the anti-smokers.

FIRST PUBLIC As originally introduced, HB 235 was
HEARING FOR rejected by the House Committee on Human
SUB HB 235 Service. This is evidenced on your blue copy by all after the titles being stricken. However, the chairperson and sponsor prevailed upon the committee to have another chance. After the title and short title, sponsors drafted a wholly new bill. This was submitted only to the executive session of the committee and no public witnesses have ever been heard on this substituted House Bill 235. On an executive session vote that the substitute do pass, the motion failed, 10 to 7. Sponsors got 10 signatures on the floor to overturn the committee. Many believe allowing less than 10 per cent of the House membership to overturn hours of committee deliberation faults the system and value of committees.

Therefore, the first opportunity for public testimony for the substituted HB 235 was scheduled in the Senate, March 5th.

MORE REASONS
WHY HB 235
SHOULD BE KILLED

(Continuing on page two)

STRANGE
CONTRAST

Those who are familiar with the testimony of the anti-smokers know it is heavy on death and destruction. We sometimes wonder whether all of the proponents really believe all of the claims about smoking cigarettes. Congress, federal agencies and private research have

devoted many years and millions of dollars to resolve the questions raised by anti-smokers— and all have yet to resolve this controversy. Millions more will be spent to find a definite answer. Meanwhile, the legislature is being asked to make a determination on the basis of claims advanced by — not the nonsmokers — the anti-smokers.

Substituted HB235 is a strange contrast to the testimony. If the testimony were accepted without question, the bill would outlaw use of smoking tobacco, a totally legal enjoyment by millions. Instead substituted HB235 treats the whole public in Section 4 to a variety of signs, and puts a really unfair burden on business. Section 4 states that no business really has to segregate smokers but he has to post a sign stating that there are no segregated areas. It further states that these signs must be posted conspicuously in every public entrance, and "in a manner that can be easily read and understood." (Four entrances would have to be so posted for Helena's Travelodge, for example.) (Such a required sign posting is akin to requiring a restaurant to post a sign "ptomaine is not served here.")

We repeat: on page 4, section 4, line 24, says these burdens shall be imposed.

When taken together with Section 3, new subsection (2), Mountain Bell, Montana Power, Anaconda Company, your grocery stores, all working places are under the requirements — that they "shall" do these things, or else.

O R,
E L S E W H A T ?

As amended without public hearing on such amendments, substituted house bill 235 has no enforcement nor penalties within the draft on which you are asked to vote. So what meaning can "shall" have? For all of the

anti-smokers' testimony of death, their substitute offers a strange "solution." This disparity gives rise to all of their motives. Some are quite honest, and they want to save smokers; to get them to stop smoking and be better people than they are—perhaps as good as the antismokers.

OTHER LAWS
AND RULES
APPLY

We must ask: What is their motive for continuing to propose such weak legislation? Or, don't they know that we already have on our Montana law books and administrative codes more government and bureaucratic powers than would be needed to cope with the matter of segregating areas for differences in personal life styles. We offer just a few of these Montana codes and rules in the following pages.

50 - 1 - 201 TITLE 50 on HEALTH and SAFETY provides the Health
50 - 1 - 202 department with all powers needed to fully cover all of
50 - 1 - 203 Section 6 of the substituted house bill 235 .

50 - 1 - 206 "The health department is ... hereby authorized to prepare
50 - 1 - 124 a plan for comprehensive state health planning. Section
50 - 1 - 202 expands on all powers, and they are great.

50 - 1 - 202 (9) mandates our health department to "develop and administer a
program to protect the health of mothers and children." Sub (14) and (16) gives
the health department all power needed to supervise local health departments, and
to comply with whatever Joe Califano is wanting to qualify for federal funds. If
getting more federal funds is a motive, the health people have all powers needed.

50-1-203 (1) and (2) gives the health department powers to abate all unsanitary
conditions and public nuisances, as smoking certainly is in certain hospital areas.

50-1-206 states: (1) The department shall adopt regulations prescribing the
requirements for ... any other matters pertinent to the health and physical well
being of pupils, teachers and others who frequent schools.

UNLAWFUL HB235 is not needed for its sign posting requirements.
TO REMOVE 50-2-122 states "it is unlawful to remove or deface any
SIGN placard or notice posted by the local health officer."

PENALTIES ?
WE HAVE THEM 50-2-124 (1) Any person who does not comply with rules
adopted by a local board is guilty of a misdemeanor.
On conviction, he shall be fined not less than \$10 or more
than \$50." Sub (2) provides penalties otherwise as much as \$500 and 90 days in jail.
Sub (3) provides each day of violation constitutes a separate offense.

CHAPTER 3 Under Chapter 3 for the Fire Marshal, 50-3-103 (1)
COVERS MORE empowers the state fire marshal to adopt rules to effect
IN HB 235 the law for "fire protection and public safety." All we need
to do is read our law to see that these powers duplicate
some proposals in the substituted HB235, i.e. in section 6,
(c), and elsewhere. The fire marshal's powers are over a long list of areas set forth
in the statutes. These include "air conditioning and ventilating, and other duct systems"
and "flammable liquids," also gases, hazardous chemicals "and other special fire
hazards." We certainly do not need HB235 to duplicate these areas.

Available to any proponent of substituted HB235 are all of the foregoing, and more,
with penalties under section 50 - 5 - 109 including \$100 for first hospital offense,
\$300 for each subsequent offense, with each subsequent offense and each day of
continuing violation after conviction being a separate offense. These penalties support
the health department powers over "any person" which is endangering health and welfare
of patients. Thus, how much of section 6 dealing with health care facilities is needed
substituted HB235? Under present law, the state and local health people can do it all

FURTHER

DUPLICATION

The Montana Fire Marshal has been empowered by the legislature under section 50 - 3 - 103 (3) to adopt all the standards and regulations of the U. S. Bureau of Standards, the national fire protection association and the American insurance association. These rules are enforceable under penalties which range to \$50 for each day of neglect. An example of one such rule is called Article 29 in our Montana Administrative Procedures and Regulations, or now called "ARM." Article 29 is entitled "SMOKING." Section 29.101 provides for designating areas "where smoking shall be prohibited." This specifically covers "places of assembly" and several others listed. It specifically covers storage of combustible materials. It states that the Fire Marshal "is empowered and authorized to order the owner or occupant to post "NO SMOKING" signs in each building, structure, room or place in which smoking shall be prohibited. Such signs shall be conspicuously and suitably located." The Fire Marshal, continuing the quote of this Montana regulation "shall designate specific safe locations, if necessary, in any building, structure or place in which smoking may be permitted."

Section 29.102 of the Montana fire codes goes further than substituted HB235, specifically covering outdoor smoking of cigarettes or other tobacco.

Section 29.103 specifically covers "the lettering, size, color and location of legally required 'NO SMOKING' signs shall be subject to the approval of the chief (fire marshal). Section 29.104 states, "It shall be unlawful for any person to remove or mutilate or destroy any legally required 'NO SMOKING' sign. This is present law and goes further than HB235.

Section 29.105 states that it shall be unlawful for any person to discard any lighted tobacco in any place where a NO SMOKING sign is posted except in a suitable container.

We thank the Fire Marshal, Robert Kelly, for providing copies of Article 29 of our state fire codes. He provides us with a copy of a statement which says he is empowered to and has adopted two new sections of codes--the uniform fire code and uniform life safety code. He provides the citations: ARM 23-2.10B (1)-S1022, and ARM 23.2.10B (1)-S1010, respectively. (A copy of his statement is filed with the committee secretary.)

CHAPTER 61

BUILDING CODE

Section 50 - 61 - 103 of the state building codes lists some 80 public areas which are subject to posting against smoking. 50 - 62 - 108 covers the risks of "any combustible materials, inflammable conditions or fire hazards dangerous to the safety of the building premises or to the public." It provides for written notice, and 50 - 62 - 109 provides for 24 hour compliance, with 50-62 - 111 providing penalty of \$50 for each day's neglect. We believe these sections, together with the previously cited sections comprise further reason for voting that substituted HB 235 do not pass.

OCCUPATIONAL HEALTH ACT
COVERS IT

The substituted HB235 is not needed. For remedies for any antismoker on work places (which is affected in sections 4, 5 and 6, section 50 - 70 - 105 states that the state board shall issue orders necessary to protect workers. This section authorizes all necessary research to determine what harms workers. The act presumes the board is already aware of "air contaminants." Section 50 - 70 - 103 (1) defines "air contaminant" as "fumes, dust, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combinations thereof." Again HB 235 seeks to duplicate.

As to section 5 of 235 citing kitchens, and workplaces as well as eating places, sub (9) and (11) of the occupational health act specifically covers "lunchrooms."

BEYOND THE LAW

NO SMOKING signs are common in all federal, state and local government buildings. Who ever posts these do so without needing substituted HB235 for authority.

In the restaurants of witnesses who have testified and have otherwise communicated with legislators against HB235, they speak of growing voluntary offering of nonsmoking areas because they are good business people. For an example of how the voluntary system is working, go to any of the several 4 - Bs restaurants in Montana. Under the voluntary way, a restaurant remains flexible to handle large crowds or conventions, with expanding or changing the no smoking postings. Under a version of 235, or HB304 which has been killed, a restaurant can get "locked in" with specified, inflexible segregated areas.

For those who enjoy their freedoms, customers and business people, the voluntary way is growing, and succeeding. More people are smoking friendly.

CLEAN AIR DEVICES

Modern electronic devices which automatically cleans the indoor air make HB235 unnecessary.

Restaurant witnesses testified in the House that they are using electronic devices which clean the air amazingly in short time, because it's good for business. HB235 would be bad for business.

Some will vote that substituted HB235 DO NOT PASS because they are opposed to more big brother government intrusions into business. This was one of the important issues in the California Proposition 5 of 1978. A majority of the people voted against proposed more government, more red tape to effect segregation in public places. (After national controversy going back to the civil war, and the end to segregation as a social issue, HB235 is strangely out of step philosophically.)

FUTURE COSTS

Some will vote that HB 235 DO NOT PASS, realizing the hidden future costs, which the next session of our legislature will be asked to draw from taxpayers.

One need only to look at HB235 as originally introduced, and the drafts of previous like bills, and the testimony of the local health officials. Enforcement and penalty is essential to any successful legislation. If HB235 as amended is unfortunately enacted, the antismokers will have achieved goal number one: to get anything at all on the books. Then, they will be back next session to testify that HB235 as amended was too weak and it doesn't work. They will want a stricter amendment, and more government personnel to police more restrictions. Bills which our legislature has thus far killed have elicited testimony of local health officers that it all will cost money. Local health officers this session told the House committee they want an amendment specifying that the state can make an independent contract with local health officers to enforce NO SMOKING. They testified in the same manner two years ago.

LABOR AND Both labor and business testified in this session's House committee on human services that they opposed HB235.

BUSINESS BOTH A union spokesman testified that the laboring man is
OPPOSED TO 235 opposed to any law which threatens his ability to relax after a hard day's work with a smoke — pipe, cigar or cigarette — in a seat of his choice.

A Mountain Bell witness raised the problem of civil rights: Business can not interrogate an applicant under the law as to whether he or she is married—or whether he or she is a tobacco smoker. Therefore, business which must employ persons in limited and fixed space would have little choice under 235 but to select section 4 sub (c) and run into problems with antismokers. Or, as one executive stated, "We'd have to declare the whole area as a nonsmoking area."

VOTE DO NOT PASS OR ASK JUDICIARY FOR COUNSEL It seems clear that the Senate Committee could honor the House Committee's rejection of HB235, based on fresh testimony, together with a realistic view of the past and future of such legislation. However, in event of doubt as to the lack of excellence of the drafting, but more importantly, of the duplication of existing law and regulatory codes, rereferral for counsel to the Senate Committee on Judiciary would be a logical step.

It is our hope on behalf of all opponents that the Senate will cast a DO NOT PASS vote on substituted HB235.

Submitted respectfully by Thomas W. Maddox, Registered Lobbyist, Executive Director;
Montana Association of Tobacco and Candy Distributors
P. O. Box 123
Helena MT 59601

5 March 1979

ARTICLE 29

SMOKING

Designated Areas Where Smoking Shall Be Prohibited

Sec. 29.101. Where conditions are such as to make smoking a hazard in any areas of piers, wharves, warehouses, stores, industrial plants, institutions, schools, places of assembly, and in open spaces where combustible materials are stored or handled, the Chief is empowered and authorized to order the owner or occupant in writing to post "NO SMOKING" signs in each building, structure, room or place in which smoking shall be prohibited. Such signs shall be conspicuously and suitably located. The Chief shall designate specific safe locations, if necessary, in any building, structure or place in which smoking may be permitted.

Smoking

Sec. 29.102. (a) It shall be unlawful for any person during that period of the year declared by the Chief as the hazardous season to light, ignite or otherwise set fire to or to smoke any tobacco, cigarette, pipe or cigar in or upon any mountainous, brush or forest covered land, or land covered with any flammable material, or upon any road or trail traversing any such mountainous, brush or forest covered land or land covered with flammable material; provided, however, that nothing in this Section shall apply to the area within the boundaries of any established smoking areas as designated by the Chief.

(b) It shall be unlawful for any person to utilize any lighted or smoldering material in connection with smoking of bees or in or near any apiary located in or upon any mountainous, brush, or forest covered land, or land covered with flammable material, without first having obtained a permit to do so from the Chief.

"No Smoking" Signs

Sec. 29.103. The lettering, size, color and location of legally required "NO SMOKING" signs shall be subject to the approval of the Chief.

Removal of Signs Prohibited

Sec. 29.104. It shall be unlawful for any person to remove or mutilate or destroy any legally required "NO SMOKING" sign.

Compliance With "No Smoking" Signs

Sec. 29.105. It shall be unlawful for any person to smoke or throw or deposit any lighted or smoldering substance in any place where "NO SMOKING" signs are posted or in any other place where smoking would occasion or constitute a fire or life hazard.

STATE OF MONTANA

DEPARTMENT OF JUSTICE -FIRE MARSHAL BUREAU

(1) I, Robert E. Hill, Chief of the Fire Marshal Bureau, by virtue of and pursuant to the authority vested in me by Section 82-1202, R.C.M. 1947, do promulgate and adopt the annexed rules and regulations to wit:

NEW: ARM 23-2.10B(1)-S1022 Uniform Fire Code

AMD: ARM 23-2.10B(1)-S1010 Life Safety Code, 1976 edition
as permanent rules of this Bureau.

(2) This order after first being recorded in the order register of this Bureau shall be forwarded to the Secretary of State for filing.

APPROVED AND ADOPTED June 24, 1978.

CERTIFIED TO THE
SECRETARY OF STATE

BY: Robert E. Hill

Chief, Fire Marshal Bureau