

1 H BILL NO. 174  
 2 INTRODUCED BY Holmes - Ellen Vincent Hamelka  
 3 Newman Burnett PALMER Kerale Bradley  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE Salary  
 5 DESIGNATION OF NONSMOKING AREAS IN PUBLIC PLACES AND TO  
 6 PROVIDE FOR ENFORCEMENT."

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

9 Section 1. Short title. This act may be cited as "The  
10 Montana Indoor Clean Air Act of 1977".

11 Section 2. Purpose. The purpose of this act is to  
12 protect the health and atmospheric environment of nonsmokers  
13 and to encourage observation of the rights of nonsmokers  
14 insofar as is practicable in public places.

15 Section 3. Definitions. AS used in this act the  
16 following definitions apply:

17 (1) "Department" means the department of health and  
18 environmental sciences provided for in Title 82A, chapter 6.

19 (2) "Enclosed public place" means a room, other than a  
20 tavern, smoking room, private club, elevator, store, or  
21 private residence, which is designed to serve 6 or more  
22 persons and includes but is not limited to:

- 23 (a) a hotel or motel dining room;
- 24 (b) a restaurant, cafe, or cafeteria;
- 25 (c) a theater;

- 1 (d) an arena;
- 2 (e) a gymnasium;
- 3 (f) a streetcar, bus, or railway passenger car;
- 4 (g) a bus station, railway station, or airport waiting  
5 room;

6 (h) a meeting room in a state, county, or city  
7 building;

8 (i) a waiting room, treatment room, sleeping room,  
9 lobby, or hallway of a health care facility; and

10 (j) a public waiting room or conference room of a  
11 professional person who serves the public.

12 (3) "Tavern" means a place which sells alcoholic  
13 beverages for consumption on the premises as its primary  
14 business.

15 (4) "Restaurant" means a place which sells food for  
16 consumption on the premises as its primary business.

17 Section 4. Nonsmoking area to be designated in  
18 enclosed public place. (1) The manager of an enclosed public  
19 place shall post signs designating as a nonsmoking area at  
20 least one-half of the enclosed area.

21 (2) Signs designating nonsmoking areas shall be posted  
22 in a manner making them easily seen and read by customers  
23 and visitors.

24 Section 5. Room arrangement in enclosed public place.

25 (1) Seats, signs, exhaust fans, and windows in an enclosed

*HB 174*

1 public place shall be arranged in a manner reasonably  
2 calculated to separate smoking and nonsmoking areas.

3 (2) The department shall circulate guidelines for  
4 ventilation and room arrangement designed to provide maximum  
5 comfort to nonsmokers at the least inconvenience to those  
6 responsible for room arrangement.

7 Section 6. Elevators and stores. (1) No smoking signs  
8 shall be posted in a manner making them easily seen and read  
9 in all elevators which serve the public.

10 (2) The manager of a store shall post no smoking signs  
11 throughout the store in a manner making them easily seen and  
12 read by customers and visitors. Nothing in this section  
13 prohibits a store manager from setting aside an enclosed or  
14 well-ventilated lounge area where smoking is permitted.

15 Section 7. Exclusions. (1) Provided it is clearly  
16 designated that smoking is permitted, offices, halls, and  
17 other public places occupied or used exclusively by persons  
18 who specifically elect to breathe smoke-filled air are, upon  
19 approval of the local board of health, excluded from the  
20 provisions of this act.

21 (2) The department shall adopt rules governing the  
22 granting of exclusions.

23 Section 8. Inspection authorized. Agents of the  
24 department or local health officers shall inspect public  
25 places to ascertain compliance with this act.

1 Section 9. Penalty for violation. A manager of a  
2 public place convicted of violating this act shall be fined  
3 no more than \$100 for each day of offense.

4 Section 10. Injunction authorized. The department or a  
5 county attorney shall sue to enjoin the operation of a  
6 public place in violation of this act.

7 Section 11. Funding. The cost of implementing this  
8 [act] shall be paid out of any additional excise tax on  
9 cigarettes imposed by the 45th legislature or, if no  
10 additional excise tax is imposed, out of the general fund.

11 Section 12. Severability. If a part of this act is  
12 invalid, all valid parts that are severable from the invalid  
13 part remain in effect. If a part of this act is invalid in  
14 one or more of its applications, the part remains in effect  
15 in all valid applications that are severable from the  
16 invalid applications.

17 Section 13. Effective date. This act is effective May  
18 1, 1977.

-End-

STATE OF MONTANA

*Amended*  
REQUEST NO. 88-77

FISCAL NOTE

Form BD-15

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In compliance with a written request received February 10, 19 77, there is hereby submitted a Fiscal Note for House Bill 174 Amended pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

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DESCRIPTION OF PROPOSED LEGISLATION:

Provides for the designation of non-smoking areas in public places and provides for enforcement.

ASSUMPTIONS:

Enforcement of the act will be done by local health departments as a part of their normal routine inspections.

FISCAL IMPACT:

None to the Department of Health and Environmental Sciences. Also, the fiscal impact on local government should be minimal.

*Richard L. Young*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-17-77

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Committee on Public Health, Welfare & Safety

Objection Raised to Adverse Committee Report

1 H BILL NO. 174  
 2 INTRODUCED BY Holmes; Elyse Vincent Hamelone  
 3 Shawna Burgess Palmer Kerley Bradley Gabe  
 4 Waldron A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE  
 5 DESIGNATION OF NONSMOKING AREAS IN PUBLIC PLACES AND TO  
 6 PROVIDE FOR ENFORCEMENT."

7  
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 9 Section 1. Short title. This act may be cited as "The  
 10 Montana Indoor Clean Air Act of 1977".

11 Section 2. Purpose. The purpose of this act is to  
 12 protect the health and atmospheric environment of nonsmokers  
 13 and to encourage observation of the rights of nonsmokers  
 14 insofar as is practicable in public places.

15 Section 3. Definitions. As used in this act the  
 16 following definitions apply:

- 17 (1) "Department" means the department of health and  
 18 environmental sciences provided for in title 82A, chapter 6.
- 19 (2) "Enclosed public place" means a room, other than a  
 20 tavern, smoking room, private club, elevator, store, or  
 21 private residence, which is designed to serve 6 or more  
 22 persons and includes but is not limited to:  
 23 (a) a hotel or motel dining room;  
 24 (b) a restaurant, cafe, or cafeteria;  
 25 (c) a theater;

- 1 (d) an arena;
- 2 (e) a gymnasium;
- 3 (f) a streetcar, bus, or railway passenger car;
- 4 (g) a bus station, railway station, or airport waiting  
 5 room;
- 6 (h) a meeting room in a state, county, or city  
 7 building;
- 8 (i) a waiting room, treatment room, sleeping room,  
 9 lobby, or hallway of a health care facility; and
- 10 (j) a public waiting room or conference room of a  
 11 professional person who serves the public.
- 12 (3) "Tavern" means a place which sells alcoholic  
 13 beverages for consumption on the premises as its primary  
 14 business.
- 15 (4) "Restaurant" means a place which sells food for  
 16 consumption on the premises as its primary business.
- 17 Section 4. Nonsmoking area to be designated in  
 18 enclosed public place. (1) The manager of an enclosed public  
 19 place shall post signs designating as a nonsmoking area at  
 20 least one-half of the enclosed area.
- 21 (2) Signs designating nonsmoking areas shall be posted  
 22 in a manner making them easily seen and read by customers  
 23 and visitors.
- 24 Section 5. Room arrangement in enclosed public place.  
 25 (1) Seats, signs, exhaust fans, and windows in an enclosed

1 public place shall be arranged in a manner reasonably  
2 calculated to separate smoking and nonsmoking areas.

3 (2) The department shall circulate guidelines for  
4 ventilation and room arrangement designed to provide maximum  
5 comfort to nonsmokers at the least inconvenience to those  
6 responsible for room arrangement.

7 Section 6. Elevators and stores. (1) No smoking signs  
8 shall be posted in a manner making them easily seen and read  
9 in all elevators which serve the public.

10 (2) The manager of a store shall post no smoking signs  
11 throughout the store in a manner making them easily seen and  
12 read by customers and visitors. Nothing in this section  
13 prohibits a store manager from setting aside an enclosed or  
14 well-ventilated lounge area where smoking is permitted.

15 Section 7. Exclusions. (1) Provided it is clearly  
16 designated that smoking is permitted, offices, halls, and  
17 other public places occupied or used exclusively by persons  
18 who specifically elect to breathe smoke-filled air are, upon  
19 approval of the local board of health, excluded from the  
20 provisions of this act.

21 (2) The department shall adopt rules governing the  
22 granting of exclusions.

23 Section 8. Inspection authorized. Agents of the  
24 department or local health officers shall inspect public  
25 places to ascertain compliance with this act.

1 Section 9. Penalty for violation. A manager of a  
2 public place convicted of violating this act shall be fined  
3 no more than \$100 for each day of offense.

4 Section 10. Injunction authorized. The department or a  
5 county attorney shall sue to enjoin the operation of a  
6 public place in violation of this act.

7 Section 11. Funding. The cost of implementing this  
8 [act] shall be paid out of any additional excise tax on  
9 cigarettes imposed by the 45th legislature or, if no  
10 additional excise tax is imposed, out of the general fund.

11 Section 12. Severability. If a part of this act is  
12 invalid, all valid parts that are severable from the invalid  
13 part remain in effect. If a part of this act is invalid in  
14 one or more of its applications, the part remains in effect  
15 in all valid applications that are severable from the  
16 invalid applications.

17 Section 13. Effective date. This act is effective May  
18 1, 1977.

-End-

## HOUSE BILL NO. 174

INTRODUCED BY HOLMES, ELLERD, VINCENT, HUENNEKENS, WALDRON,  
DUSSAULT, BURNETT, PALMER, KESSLER, BRADLEY, GERKE, EUDAILY

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE  
DESIGNATION OF NONSMOKING AREAS IN PUBLIC PLACES AND TO  
PROVIDE FOR ENFORCEMENT."

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

Section 1. Short title. This act may be cited as "The  
Montana Indoor Clean Air Act of 1977".

Section 2. Purpose. The purpose of this act is to  
~~protect the health and atmospheric environment of nonsmokers~~  
~~and to~~ encourage observation of the rights of nonsmokers  
insofar as is practicable in public places.

Section 3. Definitions. As used in this act the  
following definitions apply:

(1) "Department" means the department of health and  
environmental sciences provided for in Title 82A, chapter 6.

(2) "Enclosed public place" means a PUBLIC  
TRANSPORTATION VEHICLE OR a room, other than a tavern,  
smoking room, private club, elevator, store, or private  
residence, which is designed to serve 6 or more persons ~~and~~  
~~includes but is not limited to:~~

~~(a) a hotel or motel dining room;~~

~~(b) a restaurant, cafe, or cafeteria;~~

~~(c) a theater;~~

~~(d) an arena;~~

~~(e) a gymnasium;~~

~~(f) a streetcar, bus, or railway passenger car;~~

~~(g) a bus station, railway station, or airport waiting  
room;~~

~~(h) a meeting room in a state, county, or city  
building;~~

~~(i) a waiting room, treatment room, sleeping room,  
lobby, or hallway of a health care facility; and~~

~~(j) a public waiting room or conference room of a  
professional person who serves the public.~~

(3) "Tavern" means a place which sells alcoholic  
beverages for consumption on the premises as its primary  
business.

(4) "Restaurant" means a place which sells food for  
consumption on the premises as its primary business.

Section 4. Nonsmoking area to be designated in  
enclosed public place. (1) The manager of an enclosed public  
place shall post signs designating as a nonsmoking area ~~at~~  
~~least one-half~~ AN ADEQUATE PORTION of the enclosed area.

(2) Signs designating nonsmoking areas shall be posted  
in a manner making them easily seen and read by customers  
and visitors.

1        ~~Section 5. Room arrangement in enclosed public places~~  
 2        ~~{1} Seats, signs, exhaust fans, and windows in an enclosed~~  
 3        ~~public place shall be arranged in a manner reasonably~~  
 4        ~~calculated to separate smoking and nonsmoking areas.~~

5        ~~{2} The department shall circulate guidelines for~~  
 6        ~~ventilation and room arrangement designed to provide maximum~~  
 7        ~~comfort to nonsmokers at the least inconvenience to those~~  
 8        ~~responsible for room arrangements.~~

9        Section 5. Elevators and stores. (1) No smoking signs  
 10       shall be posted in a manner making them easily seen and read  
 11       in all elevators which serve the public.

12       (2) The OWNER OR manager of a store shall post  
 13       no smoking signs throughout the store in a manner making  
 14       them easily seen and read by customers and visitors.  
 15       Nothing in this section prohibits a store OWNER OR manager  
 16       from setting aside an enclosed or well-ventilated lounge  
 17       area where smoking is permitted.

18       Section 6. Exclusions. (1) Provided it is clearly  
 19       designated that smoking is permitted, ~~offices, halls, and~~  
 20       ~~other public places~~ AN OFFICE, HALL, OR OTHER PUBLIC PLACE  
 21       occupied or used exclusively by persons who specifically  
 22       elect to breathe smoke-filled air are IS, upon approval of  
 23       the local board of health, excluded from the provisions of  
 24       OTHER SECTIONS OF this act, AND MAY BE DESIGNATED AS A  
 25       "SMOKING ROOM".

1        (2) The department shall ~~adopt rules governing the~~  
 2        ~~granting of exclusions~~ BE RESPONSIBLE FOR PERIODIC  
 3        EVALUATION OF THE EFFECTIVENESS OF THE LOCAL HEALTH OFFICER  
 4        IN IMPLEMENTING THIS ACT.

5        Section 7. Inspection authorized. Agents of the  
 6        department or local health officers shall inspect public  
 7        places to ascertain ~~compliance with this act~~ THE PRESENCE OF  
 8        NO-SMOKING SIGNS.

9        Section 8. Penalty for violation. ~~A manager of a~~  
 10       ~~public place convicted of violating this act shall be fined~~  
 11       A LOCAL HEALTH DEPARTMENT MAY AFTER FIVE DAYS' WARNING  
 12       CHARGE THE MANAGER OF A PUBLIC PLACE A FINE OF no more than  
 13       \$100 \$50 for each day of offense THAT SIGNS ARE NOT POSTED  
 14       IN ACCORDANCE WITH THIS ACT.

15       Section 9. Injunction authorized. ~~The department or a~~  
 16       ~~county attorney shall sue to enjoin the operation of a~~  
 17       ~~public place in violation of this act.~~ A LOCAL HEALTH  
 18       OFFICER MAY SUE TO ENJOIN THE OPERATION OF A PUBLIC PLACE  
 19       FOUND TO BE IN REPEATED VIOLATION OF THIS ACT.

20       Section 11. Funding. ~~The cost of implementing this~~  
 21       ~~[act] shall be paid out of any additional excise tax on~~  
 22       ~~cigarettes imposed by the 45th legislature or, if no~~  
 23       ~~additional excise tax is imposed, out of the general fund.~~

24       Section 13. Severability. ~~If a part of this act is~~  
 25       ~~invalid, all valid parts that are severable from the invalid~~

1 ~~part remain in effect. If a part of this act is invalid in~~  
2 ~~one or more of its applications, the part remains in effect~~  
3 ~~in all valid applications that are coverable from the~~  
4 ~~invalid applications.~~

5 Section 10. Effective date. This act is effective May  
6 1, 1977.

-End-



March 11, 1977

STANDING COMMITTEE REPORT  
Senate Committee on Public Health, Welfare & Safety

That House Bill 174, third reading, be amended as follows:

1. Amend page 1, section 3, line 20 through 23.

Following: "means"

Strike: "a PUBLIC TRANSPORTATION VEHICLE OR A room, other than a tavern, smoking room, private club, elevator, store, or private residence"

Insert: "any indoor room or area, excluding taverns"

2. Amend page 1, section 3, lines 23 and 24.

Following: "persons"

Insert: "and is used by the general public or serves as a place of work for paid employees"

3. Amend page 4, section 8, line 11.

Following: line 10

Strike: "A LOCAL HEALTH DEPARTMENT MAY"

Insert: "A manager of a public place convicted of violating this act shall be fined"

4. Amend page 4, section 8, line 12.

Following: line 11

Strike: "CHARGE THE MANAGER OF A PUBLIC PLACE A FINE OF"

5. Amend page 4, section 8, lines 13 and 14.

Following: line 12

Strike: "\$50"

Insert: "\$10"

Following: "day"

Strike: "THAT SIGNS ARE NOT POSTED IN ACCORDANCE WITH THIS ACT"

Insert: "of offense"