

HOUSE BILL 110

IN THE HOUSE

January 11, 1979	Introduced and referred to Committee on Business and Industry.
January 19, 1979	Committee recommend bill, do not pass.
January 22, 1979	Report adopted.

1 HOUSE BILL NO. 110
 2 INTRODUCED BY BURNETT
 3 BY REQUEST OF THE
 4 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
 5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 7 AMEND THE LAWS RELATING TO TOURIST CAMPGROUNDS AND TRAILER
 8 COURTS; AMENDING SECTIONS 50-52-101 THROUGH 50-52-105,
 9 50-52-201, 50-52-202, 50-52-204, 50-52-207, 50-52-301, AND
 10 50-52-302, MCA."
 11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 13 Section 1. Section 50-52-101, MCA, is amended to read:
 14 "50-52-101. Definitions. As used in this chapter,
 15 unless the context clearly indicates otherwise, the
 16 following definitions apply:
 17 (1) "Board" means the board of health and
 18 environmental sciences.
 19 (2) "Campground" means a place offered to the public
 20 upon which two or more spaces are made available for
 21 camping.
 22 (3) "Department" means the department of health and
 23 environmental sciences.
 24 (4) "Establishment" means a campground or trailer
 25 court.

1 ~~(3)(5)~~ "Person" includes means an individual,
 2 partnership, firm, association, municipality, public or
 3 private corporation, association, subdivision or agency of
 4 the state, trust, or estate or other legal entity engaged in
 5 the-business--of operating, or owning, or offering the
 6 services of a--tourist--campground--or--trailer--court an
 7 establishment.
 8 ~~(4) "Tourist campground" means a place used for public~~
 9 ~~camping primarily by automobile tourists where persons can~~
 10 ~~camp or secure tents or park individual trailers or truck~~
 11 ~~trailers for camping and sleeping purposes.~~
 12 (6) "Public" means anyone who uses an establishment,
 13 including the employees or independent contractors of the
 14 person operating the establishment. This definition excludes
 15 the use of a trailer or camping space by the landowner's
 16 immediate family.
 17 ~~(5)(7)~~ "Trailer court" means a parcel-of-land place
 18 offered to the public and usually designated a trailer
 19 court, trailer park, or mobile home park, recreational
 20 vehicle park, labor camp, work camp, or other similar
 21 establishment upon which two or more spaces are occupied or
 22 intended made available for occupancy by trailers or mobile
 23 homes for nonrecreation recreational or dwelling
 24 purposes."
 25 Section 2. Section 50-52-102, MCA, is amended to read:

1 "50-52-102. Department authorized to adopt rules. The
2 ~~department--shall--adopt--rules--for--constructing--and--operating~~
3 ~~tourist--campgrounds--and--trailer--courts--to--insure--sanitation~~
4 ~~and--protect--public--health.~~ (1) The department is authorized
5 to adopt rules necessary for the administration of this
6 chapter, to insure sanitation, and to protect public health,
7 including but not limited to rules for:

8 (a) preconstruction review of establishments;

9 (b) licensing of establishments;

10 (c) standards governing the operations of
11 establishments;

12 (d) written agreements for assistance with the local
13 administration of the provisions of this chapter and the
14 rules;

15 (e) inspections and evaluations of establishments and
16 reports to the department on enforcement.

17 (2) Department rules adopted pursuant to this section
18 shall serve as the minimum establishment standards for
19 Montana."

20 Section 3. Section 50-52-103, MCA, is amended to read:

21 "50-52-103. ~~Duty--to--obtain--license--and--permit~~
22 ~~inspections~~ Administration of chapter -- agreements for
23 local assistance authorized. A person operating a tourist
24 campground or trailer court shall:

25 (1) obtain a license from the department;

1 (2) permit inspections by state or local health
2 officers, sanitarians, or other authorized persons at all
3 reasonable times. The department may enter into written
4 agreements with other state agencies, political subdivisions
5 of the state, or local boards or departments of health for
6 assistance with the administration of this chapter and
7 department rules, in addition to those inspectional duties
8 required under 50-52-301, if the department determines that
9 the proposed program is adequate to effectively and
10 efficiently carry out the provisions of this chapter and
11 rules."

12 Section 4. Section 50-52-104, MCA, is amended to read:

13 "50-52-104. ~~County--attorney--to--prosecute~~ Prosecution
14 for violations -- injunctions. (1) When the department
15 furnishes evidence to the county attorney ~~of a county in~~
16 ~~this state~~, the county attorney shall prosecute any person
17 ~~firm or corporation~~ violating this chapter or a rule
18 effective under this chapter.

19 (2) The department or, at the request of the
20 department, the attorney general or the county attorney of
21 the county in which the establishment is located may sue in
22 district court to collect the civil penalty provided for in
23 50-52-105.

24 (3) Notwithstanding any other provisions of [Title 50,
25 chapter 52], the department or, at the request of the

department, the attorney general or the county attorney of the county in which the establishment is located may sue to enjoin the operation of an establishment that is violating [Title 50, chapter 52], rules adopted pursuant to [Title 50, chapter 52], or an order issued pursuant to [Title 50, chapter 52]."

Section 5. Section 50-52-105, MCA, is amended to read:

"50-52-105. Violation--of--chapter--a--misdemeanor Penalties. (1) A person violating--a--provision--of who violates this chapter, or a rule made under it, or an order issued by the department pursuant to this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$50 or more than \$100 for the first offense and not less than \$75 or more than \$200 for the second offense, and for the third and subsequent offenses, he shall be punished by a fine of not less than \$200 and imprisonment in the county jail not to exceed 90 days.

(2) Fines--shall--be--paid--to--the--county--treasurer--of--the county--in--which--the--tourist--campground--or--trailer--court--is located. The county treasurer shall send all fines collected to the state treasurer for deposit in the state general fund. A person who violates this chapter, a rule made under it, or an order issued by the department pursuant to this chapter and who fails to submit an acceptable plan of correction within 10 days after having been notified by the

department in writing of the violation is subject to a civil penalty of not more than \$50. Each day upon which such a violation occurs is a separate offense.

(3) Fines shall be paid to the county treasurer of the county in which the establishment is located. The county treasurer shall send all fines collected to the state treasurer for deposit in the state general fund."

Section 6. Section 50-52-201, MCA, is amended to read:

"50-52-201. Application--for--license License required -- application. Application for a license is made to the department on forms containing information required by the department. (1) No person may operate an establishment unless it is licensed by the department.

(2) A separate license is required for each establishment.

(3) Application for a license shall be made by submitting the license application fee and completed application form to the department.

(4) An application for a license to operate an establishment must be received by the department not less than 30 days prior to the anticipated opening of the establishment or expiration of the existing license. Applications received after 30 days prior to the anticipated opening shall be delinquent and shall be assessed a delinquent application fee."

HB 110

Section 7. Section 50-52-202, MCA, is amended to read:

"50-52-202. License-fee Application for a license. (1)

~~Each application shall be accompanied by a fee of \$20. A~~
person shall submit annually a \$20 license application fee
to the department along with a completed application for
each establishment.

(2) ~~Fees collected by the department shall be~~
~~deposited in the state general funds. Delinquent applications~~
shall be accompanied by a \$10 delinquent application fee in
addition to the \$20 license application fee.

(3) License and delinquent application fees collected
under this chapter shall be nonrefundable and shall be
deposited in the state treasury in an earmarked revenue fund
for use by the department in administering this chapter and
the rules."

Section 8. Section 50-52-204, MCA, is amended to read:

"50-52-204. Local board to report number of licensees
to department. ~~Before June 1 of each~~ Each year, the local
board of health shall submit to the department a list of the
establishments ~~in each~~ within its jurisdiction which are
licensed under this part chapter."

Section 9. Section 50-52-207, MCA, is amended to read:

"50-52-207. Notice and hearing required. (1) A license
may not be denied or canceled by the department without
delivery to the applicant or licensee of a written statement

of the grounds for denial or cancellation or the charge
involved and an opportunity to answer at a hearing before
the department to show cause, if any, why the license should
not be denied or canceled. In this case, the licensee must
make a written request to the department for a hearing
within 10 days after notice of the grounds or charges has
been received.

(2) The notice of cancellation may be served
personally or by mail on the operator or his agent."

NEW SECTION. Section 10. Return of license
certificate to department upon cancellation. The operator of
an establishment whose license has been cancelled by the
department shall return the license certificate to the
department within 10 days after receipt of notice of
cancellation.

Section 11. Section 50-52-301, MCA, is amended to
read:

"50-52-301. ~~Health officers to make inspections~~
Establishments to be investigated and inspected. The
~~department or local health officer or sanitarium shall~~

~~(1) inspect tourist campgrounds and trailer courts~~
~~during reasonable hours as necessary~~

~~(2) supervise the inspection of tourist campgrounds or~~
~~trailer courts by local health officers, sanitarians, or~~
~~other authorized persons as necessary. (1) The department~~

1 through its employees and through local, county, and
 2 district health officers, sanitarians, or other authorized
 3 representatives shall make all necessary investigations and
 4 inspections for enforcement of this chapter and the rules.

5 (2) Each local, county, or district health officer,
 6 sanitarian, or other authorized representative shall make
 7 regular inspections as the rules of the department may
 8 direct and special inspections as the department may from
 9 time to time direct, and he shall make such reports relative
 10 to conditions existing within his district at such times and
 11 in such manner as the department may direct."

12 Section 12. Section 50-52-302, MCA, is amended to
 13 read:

14 "50-52-302. Department to pay local board for
 15 inspection. (1) Before June 30 of each year, the department
 16 shall pay transfer to a local board of health, as
 17 established under 50-2-104, 50-2-106, or 50-2-107, an amount
 18 from any general fund appropriation to the department which
 19 is for the purpose of inspecting establishments licensed
 20 under this chapter, provided, however, that there is a
 21 functioning local board of health and that the local board
 22 of health, local health officers, and sanitarians assist in
 23 the enforcement of the provisions of this chapter and the
 24 rules adopted under it. an earmarked revenue fund of the
 25 state treasury for use by the department which is for the

1 purpose of assisting the department with the administration
 2 of this chapter and the rules.

3 (2) Transfer of funds to a local board of health is
 4 contingent on the existence of a written agreement between
 5 the department and the local board of health pursuant to
 6 50-52-103 and the local board of health fulfilling its
 7 duties under that agreement.

8 (2)(3) The funds received by the local board of health
 9 pursuant to this section shall be deposited with the
 10 appropriate local fiscal authority, shall be used to support
 11 the local administration of this chapter, and shall be in
 12 addition to the funds appropriated under 50-2-108 through
 13 50-2-114."

14 NEW SECTION. Section 13. Authorized persons to have
 15 access to inspect establishments. (1) A person operating an
 16 establishment shall permit state and local health officers,
 17 sanitarians, fire marshals, electrical and plumbing
 18 inspectors, or other persons authorized by the department to
 19 enter and inspect, at any reasonable time, his establishment
 20 to determine its compliance with [Title 50, chapter 52] and
 21 the rules.

22 (2) A person may not refuse entry or access to an
 23 authorized representative of the department who presents
 24 appropriate credentials when the department or its
 25 representatives request entry at reasonable times for

HB 110

1 purposes of inspection.

2 (3) The operator of an establishment which has been
3 inspected by the department or its representatives may
4 request and shall then receive a report stating all facts
5 found which relate to its compliance status.

6 NEW SECTION. Section 14. Review of sanitary
7 facilities. (1) If the system fails, water and sewage
8 disposal systems of establishments constructed or submitted
9 to the department for approval prior to October 26, 1977,
10 shall be replaced in accordance with department rules
11 adopted pursuant to Title 76, chapter 4, part 1.

12 (2) Water, sewage disposal, and solid waste disposal
13 systems of establishments constructed or submitted to the
14 department for approval after October 25, 1977, shall comply
15 with department rules adopted pursuant to Title 76, chapter
16 4, part 1.

17 Section 15. Saving clause. This act does not affect
18 rights and duties that matured, penalties that were
19 incurred, or proceedings that were begun before the
20 effective date of this act.

21 Section 16. Severability. If a part of this act is
22 invalid, all valid parts that are severable from the invalid
23 part remain in effect. If a part of this act is invalid in
24 one or more of its applications, the part remains in effect
25 in all valid applications that are severable from the

1 invalid applications.

2 Section 17. Codification. (1) It is intended that
3 section 10 of this act be codified as an integral part of
4 Title 50, chapter 52, part 2, and the provisions of Title
5 50, chapter 52, apply to section 4 of this act.

6 (2) It is intended that sections 13 and 14 of this act
7 be codified as an integral part of Title 50, chapter 52,
8 part 3, and the provisions of Title 50, chapter 52, apply to
9 sections 3 and 4 of this act.

-End-

STATE OF MONTANA

Request No. 53-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 19, 1979, there is hereby submitted a Fiscal Note for House Bill 210 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.

DESCRIPTION

This Bill would increase the tax on cigarettes sold or possessed in the state of Montana by 1 cent a pack and authorize use of the funds from this increase to fund a tumor registry and a telephone consumer health education project.

ASSUMPTIONS

The Department of Revenue projection for cigarette consumption through the biennium is correct.

FISCAL IMPACT

Earmarked revenue fund for cancer registry and telephone health education	<u>FY 80</u>	<u>FY 81</u>
under current law	\$ 0	\$ 0
under proposed law	<u>929,000</u>	<u>950,000</u>
Estimated Increase	<u>\$929,000</u>	<u>\$950,000</u>

LONG-RANGE EFFECTS

The bill should create approximately \$950,000 in revenues for an earmarked revenue fund for cancer tumor registry and telephone consumer health education each year this bill is in effect.

Richard L. Drury
BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 1/24/79