

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.

House BILL NO. 110

1 INTRODUCED BY BURNETT

2 BY REQUEST OF THE

3 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
5 AMEND THE LAWS RELATING TO TOURIST CAMPGROUNDS AND TRAILER  
6 COURTS; AMENDING SECTIONS 50-52-101 THROUGH 50-52-105,  
7 50-52-201, 50-52-202, 50-52-204, 50-52-207, 50-52-301, AND  
8 50-52-302, MCA."

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

10 Section 1. Section 50-52-101, MCA, is amended to read:  
11 "50-52-101. Definitions. As used in this chapter,  
12 unless the context clearly indicates otherwise, the  
13 following definitions apply:

14 (1) "Board" means the board of health and  
15 environmental sciences.

16 (2) "Campground" means a place offered to the public  
17 upon which two or more spaces are made available for  
18 camping.

19 (3) "Department" means the department of health and  
20 environmental sciences.

21 (4) "Establishment" means a campground or trailer  
22 courts.

23 (3715) "Person" includes means an individual,  
24 partnership, firm, association, municipality, public or  
25 private corporation, association, subdivision or agency of  
the state, trust, or estate or other legal entity engaged in  
the business of operating or owning or offering the  
services of a tourist campground or trailer court as  
establishment.

(4) "Tourist campground" means a place used for public  
camping primarily by automobile tourists where persons can  
camp or secure tents or park individual trailers or truck  
trailers for camping and sleeping purposes.

(5) "Public" means anyone who uses an establishment,  
including the employees or independent contractors of the  
person operating the establishment. This definition excludes  
the use of a trailer or camping space by the landowner's  
immediate family.

(6) "Trailer court" means a parcel of land place  
offered to the public and usually designated a trailer  
court, trailer park, or mobile home park, recreational  
vehicle park, labor camp, work camp, or other similar  
establishment upon which two or more spaces are occupied or  
intended made available for occupancy by trailers or mobile  
homes for nonrecreational recreational or dwelling  
purposes.

26 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--a--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

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

7 Section 5. Section 50-52-105, MCA, is amended to read:  
 8 "50-52-105. Violation--of--chapter--a--misdemeanor  
 9 Penalties. (1) A person violating--a--provision--of who  
 10 violates this chapter, or a rule made under it, or an order  
 11 issued by the department pursuant to this chapter shall be  
 12 guilty of a misdemeanor and upon conviction shall be fined  
 13 not less than \$50 or more than \$100 for the first offense  
 14 and not less than \$75 or more than \$200 for the second  
 15 offense, and for the third and subsequent offenses, he shall  
 16 be punished by a fine of not less than \$200 and imprisonment  
 17 in the county jail not to exceed 90 days.

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

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

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

8 Section 6. Section 50-52-201, MCA, is amended to read:  
 9 "50-52-201. Application--for--license License required  
 10 --application. Application for a license is made to the  
 11 department on forms containing information required by the  
 12 department. (1) No person may operate an establishment  
 13 unless it is licensed by the department.

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

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

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

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

2       "50-52-202. License-fee Application for a license. (1)

3       Each--application--shall--be--accompanied--by--a--fee--of--\$20. A

4       person shall submit annually a \$20 license application fee

5       to the department along with a completed application for

6       each establishment.

7       (2) Fees--collected--by--the--department--shall--be

8       deposited--in--the--state--general--funds. Delinquent applications

9       shall be accompanied by a \$10 delinquent application fee, in

10       addition to the \$20 license application fee.

11       (3) License and delinquent application fees collected

12       under this chapter shall be nonrefundable and shall be

13       deposited in the state treasury in an earmarked revenue fund

14       for use by the department in administering this chapter and

15       the rules."

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

17       "50-52-204. Local board to report number of licensees

18       to department. Before--June-1-of-each Each year, the local

19       board of health shall submit to the department a list of the

20       establishments in--each within its jurisdiction which are

21       licensed under this part chapter."

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

23       "50-52-207. Notice and hearing required. (1) A license

24       may not be denied or canceled by the department without

25       delivery to the applicant or licensee of a written statement

1       of the grounds for denial or cancellation or the charge

2       involved and an opportunity to answer at a hearing before

3       the department to show cause, if any, why the license should

4       not be denied or canceled. In this case, the licensee must

5       make a written request to the department for a hearing

6       within 10 days after notice of the grounds or charges has

7       been received.

8       (2) The notice of cancellation may be served

9       personally or by mail on the operator or his agents."

10       NEW SECTION. Section 10. Return of license

11       certificate to department upon cancellation. The operator of

12       an establishment whose license has been cancelled by the

13       department shall return the license certificate to the

14       department within 10 days after receipt of notice of

15       cancellation.

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

17       read:

18       "50-52-301. Health--officers--to--make--inspections

19       Establishments to be investigated and inspected. The

20       department or local health officer or sanitarian shall

21       tit--inspect--tourist--campgrounds--and--trioter--courts

22       during--reasonable--hours--as--necessary;

23       tit--supervise--the--inspection--of--tourist--campgrounds--or

24       trioter--courts--by--local--health--officers--sanitarians--or

25       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) 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 5?] 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

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. Dray Jr.*  
BUDGET DIRECTOR  
Office of Budget and Program Planning  
Date: 1/24/79