

HOUSE BILL NO. 235

INTRODUCED BY ELLERD, HOLMES, COONEY, DUSSAULT, VINCENT,
KEMMIS, UNDERDAL, ROTH, HURWITZ, SCHULTZ, WYRICK

IN THE HOUSE

January 17, 1979	Introduced and referred to Committee on Human Services.
February 13, 1979	Committee recommend bill do not pass as amended. Report adopted. Objection raised to adverse committee report. Bill placed on second reading.
February 15, 1979	Printed and placed on members' desks.
February 16, 1979	Second reading, do pass as amended.
February 19, 1979	Correctly engrossed. Third reading, passed. Transmitted to second house.

IN THE SENATE

February 20, 1979	Introduced and referred to Committee on Public Health, Welfare, and Safety.
March 9, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 12, 1979	Second reading, concurred in.
March 15, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 16, 1979	Returned from second house. Concurred in as amended.
March 17, 1979	Second reading, amendments adopted.
March 19, 1979	Third reading, amendments adopted. Sent to enrolling. Reported correctly enrolled.

1 *House* BILL NO. *235*
 2 INTRODUCED BY *Edward Holmes* *Conroy* *Shannon Vincent*
 3 *Kammiie Underdal* *ROTH* *Herwitz* *DeWitt* *Wright*

4 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 Clean Indoor Air Act of 1979".

11 Section 2. Purpose. The purpose of [this act] is to
 12 protect the health of nonsmokers in public places and to
 13 provide for designated areas for those who choose to smoke.

14 Section 3. Definitions. As used in [this act], the
 15 following definitions apply:

16 (1) "Department" means the department of health and
 17 environmental sciences provided for in Title 2, chapter 15,
 18 part 21.

19 (2) "Enclosed public place" means any public
 20 transportation vehicle, health care facility, or a room
 21 other than a tavern, smoking room, private club, or private
 22 residence which is open to or used by the general public or
 23 serves as a place of work unless excluded under [section 6].

24 (3) "Tavern" means an enclosed place which sells
 25 alcoholic beverages for consumption on the premises as its

1 primary business.

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

5 (5) "Smoking" or "to smoke" means the act of smoking
 6 or carrying a lighted cigar, cigarette, pipe, or any
 7 smokable product.

8 (6) "Adequate portion" means an area large enough to
 9 accommodate nonsmoking patrons in a relatively smoke-free
 10 area.

11 Section 4. Nonsmoking area to be designated in
 12 enclosed public place. The proprietor or manager of a public
 13 place shall post a sign or signs designating an adequate
 14 portion of the enclosed place as a nonsmoking area. The
 15 signs shall be posted in a manner making them easily seen
 16 and understood.

17 Section 5. Elevators. All passenger elevators shall be
 18 designated as nonsmoking areas.

19 Section 6. Exclusions. If clearly designated as a
 20 smoking room, an office, hallway, or other public place
 21 occupied or used exclusively by persons who indicate in
 22 writing a desire to smoke or to accompany smokers, is, upon
 23 approval by any local board of health defined in 50-2-104
 24 through 50-2-107, excluded from [this act].

25 Section 7. The responsibilities of the department. (1)

1 The department may provide certificates of exclusion to
2 local boards of health for the purposes of implementing
3 [section 6].

4 (2) The department must provide and distribute at
5 cost, upon request, materials to designate smoking and
6 nonsmoking areas.

7 (3) The department shall oversee the implementation of
8 [this act] and may promulgate rules to that end. Local
9 boards of health are responsible for enforcement of [this
10 act], including inspection of public places upon complaint.

11 (4) Upon complaint a local board of health may
12 contest, pursuant to Title 2, chapter 4, the adequacy of a
13 nonsmoking area.

14 Section 8. Penalty for violation. A local health
15 officer may after 5 days' warning charge the manager of a
16 public place a fine of no more than \$50 for each day that
17 signs are not posted in accordance with [section 4].

18 Section 9. Repeated violations. A local health
19 officer, in cases of repeated violations of [section 4] may:

- 20 (1) seek an order pursuant to Title 2, chapter 4; or
- 21 (2) seek to enjoin for up to 90 days the operation of
- 22 the public place.

23 Section 10. Severability. If a part of this act is
24 invalid, all valid parts that are severable from the invalid
25 part remain in effect. If a part of this act is invalid in

1 one or more of its applications, the part remains in effect
2 in all valid applications that are severable from the
3 invalid applications.

-End-

Human Services
 Objection Raised to
 Adverse Committee Report

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A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE FACILITATE
 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 Clean Indoor Air Act of 1979".

Section 2. Purpose. The purpose of [this act] is to
 protect the health of nonsmokers in public places and to
 provide for designated ~~RESERVED~~ areas for those who choose
 to smoke.

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 2, chapter 15,
 part 21.

(2) "Enclosed public place" means any public
 transportation vehicle, health care facility, or a room
 other than a tavern, smoking room, private club, or private
 residence which is open to or used by the general public or
 serves as a place of work unless excluded under [section 6].

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

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

(5) "Smoking" or "to smoke" means the act of smoking
 or carrying a lighted cigar, cigarette, pipe, or any
 smokable product.

(6) "Adequate portion" means an area large enough to
 accommodate nonsmoking patrons in a relatively smoke-free
 area.

Section 4. Nonsmoking area to be designated in
 enclosed public places. The proprietor or manager of a
 public place shall post a sign or signs designating an
 adequate portion of the enclosed place as a nonsmoking area.
 The signs shall be posted in a manner making them easily
 seen and understood.

Section 5. Elevators. All passenger elevators shall
 be designated as nonsmoking areas.

Section 6. Exclusions. If clearly designated as a
 smoking room, an office, hallway, or other public place
 occupied or used exclusively by persons who indicate in
 writing a desire to smoke or to accompany smokers, it is upon
 approval by any local board of health defined in 50-2-104

1 through 58-2-107v excluded from [this act]v
 2 Section 7v--The responsibilities of the departments
 3 {1}--The department may provide certificates of exclusion to
 4 local boards of health for the purposes of implementing
 5 [section 6]v
 6 {2}--The department must provide and distribute at
 7 costv upon requestv materials to designate smoking and
 8 nonsmoking areasv
 9 {3}--The department shall oversee the implementation of
 10 [this act]v and may promulgate rules to that endv local
 11 boards of health are responsible for enforcement of [this
 12 act]v including inspection of public places upon complaintv
 13 {4}--Upon complaint a local board of health may
 14 contestv pursuant to Title 2v chapter 4v the adequacy of a
 15 nonsmoking areasv
 16 Section 8v--Penalty for violations--A local health
 17 officer may after 5 days⁴ warning charge the manager of a
 18 public place a fine of no more than \$50 for each day that
 19 signs are not posted in accordance with [section 4]v
 20 Section 9v--Repeated violations--A local health
 21 officer in cases of repeated violations of [section 4]v mayv
 22 {1}--seek an order pursuant to Title 2v chapter 4v or
 23 {2}--seek to enjoin for up to 90 days the operation of
 24 the public placev
 25 Section 10v--Severabilityv--If a part of this act is

1 invalidv all valid parts that are severable from the invalid
 2 part remain in effectv if a part of this act is invalid in
 3 one or more of its applicationsv the part remains in effect
 4 in all valid applications that are severable from the
 5 invalid applicationsv
 6 (21) "ENCLOSED PUBLIC PLACE" MEANS ANY INDOOR AREA,
 7 ROOM, OR VEHICLE USED BY THE GENERAL PUBLIC OR SERVING AS A
 8 PLACE OF WORK, INCLUDING BUT NOT LIMITED TO RESTAURANTS,
 9 STORES, OFFICES, TRAINS, BUSES, EDUCATIONAL OR HEALTH CARE
 10 FACILITIES, AUDITORIUMS, ARENAS, ASSEMBLY, AND MEETING
 11 ROOMS.
 12 (3) "ESTABLISHMENT" MEANS AN ENTERPRISE UNDER ONE ROOF
 13 THAT SERVES THE PUBLIC AND FOR WHICH A SINGLE PERSON,
 14 AGENCY, CORPORATION, OR LEGAL ENTITY IS RESPONSIBLE.
 15 (4) "SMOKING" OR "TO SMOKE" INCLUDES THE ACT OF
 16 LIGHTING, SMOKING, OR CARRYING A LIGHTED CIGAR, CIGARETTE,
 17 PIPE, OR ANY SMOKABLE PRODUCT.
 18 (2) "WORKING AREA" MEANS AN ENCLOSED ROOM WHERE MORE
 19 THAN ONE EMPLOYEE WORKS.
 20 SECTION 4. THERE IS A NEW MCA SECTION THAT READS:
 21 Designation or reservation of smoking or nonsmoking
 22 areas -- notice. (1) Except for those public places provided
 23 for in [section 5 of this act], the proprietor or manager of
 24 a public place shall:
 25 (a) designate nonsmoking areas with signs;

1 (b) reserve a part of the public place for nonsmokers
2 and post signs designating a smoking area; or

3 (c) designate the entire area as a smoking area.

4 (2) The proprietor or manager of an establishment
5 containing public places shall post a sign in a conspicuous
6 place at all public entrances to the establishment stating,
7 in a manner that can be easily read and understood, whether
8 or not areas within the establishment have been reserved for
9 nonsmokers.

10 SECTION 5. THERE IS A NEW MCA SECTION THAT READS:

11 Smoking prohibited in certain areas. Smoking is
12 prohibited in elevators, museums, galleries, kitchens, and
13 libraries of any establishment doing business with the
14 general public.

15 SECTION 6. THERE IS A NEW MCA SECTION THAT READS:

16 Requirements of health care facilities. (1) Health care
17 facilities shall:

18 (a) ask all in-patients, prior to admission, to
19 designate their preference for a nonsmoking or smoking
20 patient room and, when possible, accommodate such a
21 preference;

22 (b) prohibit smoking in all kitchens, laboratories,
23 and corridors;

24 (c) prohibit smoking in storage areas for supplies or
25 materials and wherever flammable liquids, gases, or oxygen

1 is stored or in use;

2 (d) provide a nonsmoking area in all waiting rooms;

3 (e) prohibit employees from smoking in patient rooms;
4 and

5 (f) require visitors to obtain express approval from
6 all patients in the patient room, or from the patients'
7 physicians, prior to smoking.

8 (2) Nothing in this section shall prohibit a health
9 care facility from banning smoking on all or a part of its
10 premises.

11 (3) All areas of a health care facility not
12 specifically referred to in this section may be considered
13 smoking areas unless posted otherwise.

14 SECTION 7. THERE IS A NEW MCA SECTION THAT READS:

15 Exemptions. Except for working areas in enclosed public
16 places, the following shall be exempt from [this act]:

17 (a) restrooms;

18 (b) taverns or bars where meals are not served;

19 (c) vehicles seating six or fewer members of the
20 public.

21 SECTION 8. THERE IS A NEW MCA SECTION THAT READS:

22 Enforcement. The provisions of [this act] shall be
23 supervised and enforced by the local boards of health under
24 the direction of the department.

25 SECTION 9. SEVERABILITY. IF A PART OF THIS ACT IS

1 INVALID. ALL VALID PARTS THAT ARE SEVERABLE FROM THE INVALID
2 PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS INVALID IN
3 ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT
4 IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE
5 INVALID APPLICATIONS.

-End-

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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 Clean Indoor Air Act of 1979".

Section 2. Purpose. The purpose of [this act] is to
protect the health of nonsmokers in public places and to
provide for designated RESERVED areas for those who choose
to smoke.

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 2, chapter 15,
part 21.

(2) "Enclosed public place" means any public
transportation vehicle, health care facility, or a room
other than a tavern, smoking room, private club, or private
residence which is open to or used by the general public or
serves as a place of work unless excluded under [section 6].

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

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

(5) "Smoking" or "to smoke" means the act of smoking
or carrying a lit cigarette, cigar, pipe, or any
smokable product.

(6) "Adequate portion" means an area large enough to
accommodate nonsmoking patrons in a relatively smoke-free
area.

Section 4. Nonsmoking area to be designated in
enclosed public places. The proprietor or manager of a
public place shall post a sign or signs designating an
adequate portion of the enclosed place as a nonsmoking area.
The signs shall be posted in a manner making them easily
seen and understood.

Section 5. Elevators. All passenger elevators shall
be designated as nonsmoking areas.

Section 6. Exclusions. If clearly designated as a
smoking room, an office, hallway, or other public place
occupied or used exclusively by persons who indicate in
writing a desire to smoke or to accompany smokers, it, upon
approval by any local board of health defined in 50-2-104

1 through 50-2-107, excluded from [this act].
 2 Section 7. The responsibilities of the departments
 3 (1) The department may provide certificates of exclusion to
 4 local boards of health for the purposes of implementing
 5 [section 6].
 6 (2) The department must provide and distribute at
 7 cost, upon request, materials to designate smoking and
 8 nonsmoking areas.
 9 (3) The department shall oversee the implementation of
 10 [this act] and may promulgate rules to that end. Local
 11 boards of health are responsible for enforcement of [this
 12 act], including inspection of public places upon complaints.
 13 (4) Upon complaint of a local board of health, may
 14 contest, pursuant to Title 2, chapter 4, the adequacy of a
 15 nonsmoking area.
 16 Section 8. Penalty for violations. A local health
 17 officer may after 5 days' warning charge the manager of a
 18 public place a fine of no more than \$50 for each day that
 19 signs are not posted in accordance with [section 4].
 20 Section 9. Repeated violations. A local health
 21 officer, in cases of repeated violations of [section 4] may:
 22 (1) seek an order pursuant to Title 2, chapter 4, or
 23 (2) seek to enjoin for up to 90 days the operation of
 24 the public place.
 25 Section 10. Severability. If a part of this act is

1 invalid, all valid parts that are severable from the invalid
 2 part remain in effect. If a part of this act is invalid in
 3 one or more of its applications, the part remains in effect
 4 in all valid applications that are severable from the
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 6 (2) "ENCLOSED PUBLIC PLACE" MEANS ANY INDOOR AREA,
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 16 LIGHTING, SMOKING, OR CARRYING A LIGHTED CIGAR, CIGARETTE,
 17 PIPE, OR ANY SMOKABLE PRODUCT.
 18 (5) "WORKING AREA" MEANS AN ENCLOSED ROOM WHERE MORE
 19 THAN ONE EMPLOYEE WORKS.
 20 SECTION 4. THERE IS A NEW MCA SECTION THAT READS:
 21 Designation or reservation of smoking or nonsmoking
 22 areas -- notice. (1) Except for those ENCLOSED public places
 23 provided for in [section 5 of this act], the proprietor or
 24 manager of a AN ENCLOSED public place shall:
 25 (a) designate nonsmoking areas with signs;

1 (b) reserve a part of the public place for nonsmokers
2 and post signs designating a smoking area; or

3 (c) designate the entire area as a smoking area.

4 (2) The proprietor or manager of an establishment
5 containing ~~ENCLOSED~~ public places shall post a sign in a
6 conspicuous place at all public entrances to the
7 establishment stating, in a manner that can be easily read
8 and understood, whether or not areas within the
9 establishment have been reserved for nonsmokers.

10 SECTION 5. THERE IS A NEW MCA SECTION THAT READS:

11 Smoking prohibited in certain areas. Smoking is
12 prohibited in elevators, museums, galleries, kitchens, and
13 libraries of any establishment doing business with the
14 general public.

15 SECTION 6. THERE IS A NEW MCA SECTION THAT READS:

16 Requirements of health care facilities. (1) Health care
17 facilities shall:

18 (a) ask all in-patients, prior to admission, to
19 designate their preference for a nonsmoking or smoking
20 patient room and, when possible, accommodate such a
21 preference;

22 (b) prohibit smoking in all kitchens, laboratories,
23 and corridors;

24 (c) prohibit smoking in storage areas for supplies or
25 materials and wherever flammable liquids, gases, or oxygen

1 is stored or in use;

2 (d) provide a nonsmoking area in all waiting rooms;

3 (e) prohibit employees from smoking in patient rooms;
4 and

5 (f) require visitors to obtain express approval from
6 all patients in the patient room, or from the patients'
7 physicians, prior to smoking.

8 (2) Nothing in this section shall prohibit a health
9 care facility from banning smoking on all or a part of its
10 premises.

11 (3) All areas of a health care facility not
12 specifically referred to in this section may be considered
13 smoking areas unless posted otherwise.

14 SECTION 7. THERE IS A NEW MCA SECTION THAT READS:

15 Exemptions. Except for working areas in enclosed public
16 places, the ~~THE~~ following shall be exempt from [this act]:

17 (a) restrooms;

18 (b) taverns or bars where meals are not served;

19 (c) vehicles ~~OR ROOMS~~ seating six or fewer members of
20 the public.

21 SECTION 8. THERE IS A NEW MCA SECTION THAT READS:

22 Enforcement. The provisions of [this act] shall be
23 supervised and enforced by the local boards of health under
24 the direction of the department.

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 10 [this act] and may promulgate rules to that end. Local
 11 boards of health are responsible for enforcement of [this
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 13 (4) Upon complaint a local board of health may
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 16 Section 8. Penalty for violations. A local health
 17 officer may after 5 days' warning charge the manager of a
 18 public place a fine of no more than \$50 for each day that
 19 signs are not posted in accordance with [section 4].
 20 Section 9. Repeated violations. A local health
 21 officer, in cases of repeated violations of [section 4] may
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 23 (2) seek to enjoin for up to 90 days the operation of
 24 the public place.
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1 invalid, all valid parts that are severable from the invalid
 2 part remain in effect. If a part of this act is invalid in
 3 one or more of its applications, the part remains in effect
 4 in all valid applications that are severable from the
 5 invalid applications.
 6 (2) "ENCLOSED PUBLIC PLACE" MEANS ANY INDOOR AREA,
 7 ROOM, OR VEHICLE USED BY THE GENERAL PUBLIC OR SERVING AS A
 8 PLACE OF WORK, INCLUDING BUT NOT LIMITED TO RESTAURANTS,
 9 STORES, OFFICES, TRAINS, BUSES, EDUCATIONAL OR HEALTH CARE
 10 FACILITIES, AUDITORIUMS, ARENAS, ASSEMBLY, AND MEETING
 11 ROOMS.
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 13 THAT SERVES THE PUBLIC AND FOR WHICH A SINGLE PERSON,
 14 AGENCY, CORPORATION, OR LEGAL ENTITY IS RESPONSIBLE.
 15 (4) "SMOKING" OR "TO SMOKE" INCLUDES THE ACT OF
 16 LIGHTING, SMOKING, OR CARRYING A LIGHTED CIGAR, CIGARETTE,
 17 PIPE, OR ANY SMOKABLE PRODUCT.
 18 (5) "WORKING AREA" MEANS AN ENCLOSED ROOM WHERE MORE
 19 THAN ONE EMPLOYEE WORKS.
 20 SECTION 4. THERE IS A NEW MCA SECTION THAT READS:
 21 Designation or reservation of smoking or nonsmoking
 22 areas -- notice. (1) Except for those ENCLOSED public places
 23 provided for in [section 5 of this act], the proprietor or
 24 manager of a AN_ENCLOSED public place shall:
 25 (a) designate nonsmoking areas with EASILY_READABLE

1 signs; OR

2 (b) reserve a part of the public place for nonsmokers
3 and post EASILY READABLE signs designating a smoking area;
4 or

5 (c) designate the entire area as a smoking area.

6 (2) The proprietor or manager of an establishment
7 containing ENCLOSED public places shall post a sign in a
8 conspicuous place at all public entrances to the
9 establishment stating, in a manner that can be easily read
10 and understood, whether or not areas within the
11 establishment have been reserved for nonsmokers.

12 SECTION 5. THERE IS A NEW MCA SECTION THAT READS:

13 Smoking--prohibited NO SMOKING SIGNS in certain areas
14 PLACES. Smoking--is-prohibited NO SMOKING SIGNS SHALL BE
15 CONSPICUOUSLY POSTED in elevators, museums, galleries,
16 kitchens, and libraries of any establishment doing business
17 with the general public.

18 SECTION 6. THERE IS A NEW MCA SECTION THAT READS:

19 Requirements of health care facilities. (1) Health care
20 facilities shall:

21 (a) ask all in-patients, prior to admission, to
22 designate their preference for a nonsmoking or smoking
23 patient room and, when possible, accommodate such a
24 preference;

25 (b) prohibit smoking in all kitchens, laboratories,

1 and corridors;

2 (c) prohibit smoking in storage areas for supplies or
3 materials and wherever flammable liquids, gases, or oxygen
4 is stored or in use;

5 (d) provide a nonsmoking area in all waiting rooms;

6 (e) prohibit employees from smoking in patient rooms;

7 and

8 (f) require visitors to obtain express approval from
9 all patients in the patient room, or from the patients'
10 physicians, prior to smoking.

11 (2) Nothing in this section shall prohibit a health
12 care facility from banning smoking on all or a part of its
13 premises.

14 (3) All areas of a health care facility not
15 specifically referred to in this section may be considered
16 smoking areas unless posted otherwise.

17 SECTION 7. THERE IS A NEW MCA SECTION THAT READS:

18 Exemptions. Except-for-working-areas-in-enclosed-public
19 places--the THE following shall be exempt from [this act]:

20 (a) restrooms;

21 (b) taverns or bars where meals are not served;

22 (c) vehicles OR ROOMS seating six or fewer members of
23 the public.

24 SECTION 8. THERE IS A NEW MCA SECTION THAT READS:

25 Enforcement. The provisions of [this act] shall be

1 supervised and enforced by the local boards of health under
2 the direction of the department.

3 ~~SECTION 9. SEVERABILITY. IF A PART OF THIS ACT IS~~
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8 ~~INVALID APPLICATIONS.~~

-End-

March 9, 1979

SENATE STANDING COMMITTEE REPORT
(Public Health, Welfare & Safety)

That House Bill No. 235 be amended as follows:

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, line 11.

Following: line 10

Strike: "Smoking prohibited"

Insert: "No smoking signs"

Following: "certain"

Strike: remainder of line 11 in its entirety

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

5. Page 5, line 12.

Strike: "prohibited"