

CHAPTER NO. 580

HOUSE BILL NO. 870

INTRODUCED BY KEEDY, CONROY, KEYSER,
SEIFERT, SCULLY, NORDTVEDT

IN THE HOUSE

February 17, 1979	Introduced and referred to Committee on Judiciary.
February 20, 1979	Committee recommend bill do pass. Report adopted.
February 23, 1979	Second reading, do pass. Considered correctly engrossed. Third reading, passed. Transmitted to second house.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Judiciary.
March 21, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 23, 1979	Second reading, concurred in.
March 27, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 28, 1979	Returned from second house. Concurred in as amended.
March 31, 1979	Second reading, amendments adopted.
April 2, 1979	Third reading, amendments adopted. Sent to enrolling. Reported correctly enrolled.

1 *House* BILL NO. *870*
 2 INTRODUCED BY *Kelly Conway House Sec 7 Jul*
 3 *Wentworth*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE
 5 EXISTENCE OF A MENTAL STATE NECESSARY FOR COMMISSION OF A
 6 CRIMINAL OFFENSE MAY BE INFERRED FROM THE ACTS OF THE
 7 ACCUSED AND THE FACTS AND CIRCUMSTANCES CONNECTED WITH THE
 8 OFFENSE AND TO PROVIDE THAT DEFENSES RELATING TO A LACK OF
 9 THE REQUIRED MENTAL STATE MUST BE PROVED BY THE DEFENDANT BY
 10 A PREPONDERANCE OF THE EVIDENCE; AMENDING SECTION 45-2-103,
 11 MCA."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 45-2-103, MCA, is amended to read:

15 "45-2-103. General requirements of criminal act and
 16 mental state. (1) A person is not guilty of an offense,
 17 other than an offense which involves absolute liability,
 18 unless, with respect to each element described by the
 19 statute defining the offense, he acts while having one of
 20 the mental states described in subsections (27), (31), and
 21 (52) of 45-2-101. The existence of a mental state may be
 22 inferred from the acts of the accused and the facts and
 23 circumstances connected with the offense.

24 (2) If the statute defining an offense prescribes a
 25 particular mental state with respect to the offense as a

1 whole without distinguishing among the elements thereof, the
 2 prescribed mental state applies to each such element.

3 (3) Knowledge that certain conduct constitutes an
 4 offense or knowledge of the existence, meaning, or
 5 application of the statute defining an offense is not an
 6 element of the offense unless the statute clearly defines it
 7 as such.

8 (4) A person's reasonable belief that his conduct does
 9 not constitute an offense is a defense if:

10 (a) the offense is defined by an administrative
 11 regulation or order which is not known to him and has not
 12 been published or otherwise made reasonably available to him
 13 and he could not have acquired such knowledge by the
 14 exercise of due diligence pursuant to facts known to him;

15 (b) he acts in reliance upon a statute which later is
 16 determined to be invalid;

17 (c) he acts in reliance upon an order or opinion of
 18 the Montana supreme court or a United States appellate court
 19 later overruled or reversed; or

20 (d) he acts in reliance upon an official
 21 interpretation of the statute, regulation, or order defining
 22 the offense made by a public officer or agency legally
 23 authorized to interpret such statute.

24 (5) If a person's reasonable belief is a defense under
 25 subsection (4), nevertheless he may be convicted of an

1 included offense of which he would be guilty if the law were
2 as he believed it to be.

3 (6) Any defense based upon this section is an
4 affirmative defense which must be proved by the defendant by
5 a preponderance of the evidence."

-End-

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 3 *Wendy*

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-End-

March 21, 1979

SENATE STANDING COMMITTEE REPORT
(Judiciary)

That House Bill No. 870, third reading bill, be amended as follows:

1. Title, lines 8 through 10.

Following: "OFFENSE" on line 8

Strike: remainder of line 8 through "EVIDENCE" on line 10

2. Page 3, lines 4 and 5.

Following: "defense" on line 4

Strike: remainder of line 4 through "evidence" on line 5