

March 30, 1981

Motion pass consideration.

March 31, 1981

Second reading, concurred in.

On motion rules suspended.
Bill placed on calendar for
third reading this day and
allowed to be transmitted
on 71st legislative day.
Motion adopted.

Third reading, concurred in
as amended. Ayes, 31; Noes, 18.

IN THE HOUSE

April 1, 1981

Returned from Senate with
amendments.

April 9, 1981

Second reading, amendments
concurred in.

On motion rules suspended and
bill placed on third reading
this day.

Third reading, amendments
concurred in. Ayes, 52;
Noes, 41. Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 794
 2 INTRODUCED BY *Callie Hays Medina* *Conor Waldron*
 3 *Doz Under Anderson* *T. Engene*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 5 PUBLIC HEALTH LAWS RELATING TO CLEAN INDOOR AIR; PROVIDING
 6 FOR ADDITIONAL ENFORCEMENT; PROVIDING PENALTIES; AMENDING
 7 SECTIONS 50-40-103, 50-40-104, AND 50-40-108, MCA."

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

10 Section 1. Section 50-40-103, MCA, is amended to read:
 11 "50-40-103. Definitions. As used in this part, the
 12 following definitions apply:

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

16 (2) "Enclosed public place" means any indoor area,
 17 room, or vehicle used by the general public or serving as a
 18 place of work, including but not limited to restaurants,
 19 stores, offices, trains, buses, educational or health care
 20 facilities, auditoriums, arenas, and assembly and meeting
 21 rooms open to the public.

22 (3) "Establishment" means an enterprise under one roof
 23 that serves the public and for which a single person,
 24 agency, corporation, or legal entity is responsible.

25 (4) "Person" means an individual, partnership,

1 corporation, association, political subdivision, or other
 2 entity.

3 (4)(5) "Smoking" or "to smoke" includes the act of
 4 lighting, smoking, or carrying a lighted cigar, cigarette,
 5 pipe, or any smokable product.

6 (6) "Smoking area" means a designated area in which
 7 smoking is permitted.

8 (5)(7) "Working--area" "Place of work" means an
 9 enclosed room where more than one employee works."

10 Section 2. Section 50-40-104, MCA, is amended to read:

11 "50-40-104. Designation or reservation of smoking or
 12 nonsmoking areas -- notice. (1) Except for those enclosed
 13 public places provided for in 50-40-105, the proprietor or
 14 manager of an enclosed public place shall:

15 (a) designate nonsmoking areas with easily readable
 16 signs; or

17 (b) reserve a part of the public place for nonsmokers
 18 and post easily readable signs designating a smoking area;
 19 or

20 (c) designate the entire area as a smoking area by
 21 posting a sign that is clearly visible to the public stating
 22 this designation.

23 (2) The proprietor or manager of an establishment
 24 containing enclosed public places shall post a sign in a
 25 conspicuous place at all public entrances to the

1 establishment stating, in a manner that can be easily read
2 and understood, whether or not areas within the
3 establishment have been reserved for nonsmokers."

4 NEW SECTION. Section 3. Stricter regulation of
5 smoking permitted. (1) A local governmental entity may adopt
6 local ordinances or other regulations that provide
7 regulation of smoking that is more strict than that provided
8 in this part.

9 (2) Nothing in this part prohibits proprietor groups,
10 including but not limited to restaurant, hotel, or hospital
11 associations, from imposing stricter regulation of smoking
12 upon their members.

13 Section 4. Section 50-40-108, MCA, is amended to read:

14 "50-40-108. Enforcement. ~~The provisions of this part~~
15 ~~shall be supervised and enforced by the local boards of~~
16 ~~health under the direction of the department.~~ (1) The city
17 attorney or county attorney in whose jurisdiction a
18 violation of this part is alleged to have occurred or the
19 attorney general shall file a complaint in the appropriate
20 court for an injunction, a criminal penalty as provided in
21 [section 5], or both, upon receipt of an affidavit of any
22 person alleging a violation of this part.

23 (2) If the city attorney, county attorney, or attorney
24 general fails to file a complaint as provided in subsection
25 (1) within 30 days after receipt of an affidavit alleging a

1 violation of this part, a person may file a complaint
2 seeking a civil penalty as provided in [section 5] and
3 recover his costs and reasonable attorney's fees if he
4 prevails."

5 NEW SECTION. Section 5. Penalties. (1) A person who
6 knowingly, as defined in 45-2-101, violates the provisions
7 of this part is guilty of a misdemeanor and is subject to a
8 fine of not more than \$25.

9 (2) A person who purposely, as defined in 45-2-101,
10 violates the provisions of this part is guilty of a
11 misdemeanor and is subject to a fine of not more than \$50
12 for the first offense and not more than \$100 for each
13 subsequent offense.

14 (3) If the city or county attorney or the attorney
15 general fails to enforce this part as provided in [section
16 4], a person who violates any provision of this part is
17 subject to a civil penalty not to exceed \$100.

18 Section 6. Codification instruction. Sections 3 and 5
19 are intended to be codified as an integral part of Title 50,
20 chapter 40, part 1, and the provisions of Title 50, chapter
21 40, part 1, apply to sections 3 and 5.

-End-

Comm. On Human Services
Minority report adopted

1 HOUSE BILL NO. 794
2 INTRODUCED BY *Callad, J. ... Waldron*
3 *Doz ... Anderson*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
5 PUBLIC HEALTH LAWS RELATING TO CLEAN INDOOR AIR; PROVIDING
6 FOR ADDITIONAL ENFORCEMENT; PROVIDING PENALTIES; AMENDING
7 SECTIONS 50-40-103, 50-40-104, AND 50-40-108, MCA."

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

10 Section 1. Section 50-40-103, MCA, is amended to read:

11 "50-40-103. Definitions. As used in this part, the
12 following definitions apply:

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

16 (2) "Enclosed public place" means any indoor area,
17 room, or vehicle used by the general public or serving as a
18 place of work, including but not limited to restaurants,
19 stores, offices, trains, buses, educational or health care
20 facilities, auditoriums, arenas, and assembly and meeting
21 rooms open to the public.

22 (3) "Establishment" means an enterprise under one roof
23 that serves the public and for which a single person,
24 agency, corporation, or legal entity is responsible.

25 (4) "Person" means an individual, partnership,

1 corporation, association, political subdivision, or other
2 entity.

3 ~~(4)~~(5) "Smoking" or "to smoke" includes the act of
4 lighting, smoking, or carrying a lighted cigar, cigarette,
5 pipe, or any smokable product.

6 (6) "Smoking area" means a designated area in which
7 smoking is permitted.

8 ~~(5)~~(7) "Working--area" "place of work" means an
9 enclosed room where more than one employee works."

10 Section 2. Section 50-40-104, MCA, is amended to read:

11 "50-40-104. Designation or reservation of smoking or
12 nonsmoking areas -- notice. (1) Except for those enclosed
13 public places provided for in 50-40-105, the proprietor or
14 manager of an enclosed public place shall:

15 (a) designate nonsmoking areas with easily readable
16 signs; or

17 (b) reserve a part of the public place for nonsmokers
18 and post easily readable signs designating a smoking area;
19 or

20 (c) designate the entire area as a smoking area by
21 posting a sign that is clearly visible to the public stating
22 this designation.

23 (2) The proprietor or manager of an establishment
24 containing enclosed public places shall post a sign in a
25 conspicuous place at all public entrances to the

1 establishment stating, in a manner that can be easily read
2 and understood, whether or not areas within the
3 establishment have been reserved for nonsmokers."

4 NEW SECTION. Section 3. Stricter regulation of
5 smoking permitted. (1) A local governmental entity may adopt
6 local ordinances or other regulations that provide
7 regulation of smoking that is more strict than that provided
8 in this part.

9 (2) Nothing in this part prohibits proprietor groups,
10 including but not limited to restaurant, hotel, or hospital
11 associations, from imposing stricter regulation of smoking
12 upon their members.

13 Section 4. Section 50-40-109, MCA, is amended to read:

14 "50-40-109. Enforcement. ~~the provisions of this part~~
15 ~~shall be supervised and enforced by the local boards of~~
16 ~~health under the direction of the department.~~ (1) The city
17 attorney or county attorney in whose jurisdiction a
18 violation of this part is alleged to have occurred or the
19 attorney general shall file a complaint in the appropriate
20 court for an injunction, a criminal penalty as provided in
21 [section 5], or both, upon receipt of an affidavit of any
22 person alleging a violation of this part.

23 (2) If the city attorney, county attorney, or attorney
24 general fails to file a complaint as provided in subsection
25 (1) within 30 days after receipt of an affidavit alleging a

1 violation of this part, a person may file a complaint
2 seeking a civil penalty as provided in [section 5] and
3 recover his costs and reasonable attorney's fees if he
4 prevails."

5 NEW SECTION. Section 5. Penalties. (1) A person who
6 knowingly, as defined in 45-2-101, violates the provisions
7 of this part is guilty of a misdemeanor and is subject to a
8 fine of not more than \$25.

9 (2) A person who purposely, as defined in 45-2-101,
10 violates the provisions of this part is guilty of a
11 misdemeanor and is subject to a fine of not more than \$50
12 for the first offense and not more than \$100 for each
13 subsequent offense.

14 (3) If the city or county attorney or the attorney
15 general fails to enforce this part as provided in [section
16 4], a person who violates any provision of this part is
17 subject to a civil penalty not to exceed \$100.

18 Section 6. Codification instruction. Sections 3 and 5
19 are intended to be codified as an integral part of Title 50,
20 chapter 40, part 1, and the provisions of Title 50, chapter
21 40, part 1, apply to sections 3 and 5.

-End-

HOUSE BILL NO. 794

INTRODUCED BY ELLERD, HARPER, McBRIDE, CONN, WALDRON,
DOZIER, WINSLOW, ANDREASON, BERGENE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
PUBLIC HEALTH LAWS RELATING TO CLEAN INDOOR AIR; ~~PROVIDING~~
~~FOR--ADDITIONAL--ENFORCEMENT;~~ PROVIDING PENALTIES; AMENDING
SECTIONS 50-40-103, AND 50-40-104, ~~AND~~ 50-40-108, MCA."

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

Section 1. Section 50-40-103, MCA, is amended to read:

"50-40-103. Definitions. As used in this part, 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 indoor area, room, or vehicle used by the general public or serving as a place of work, including but not limited to restaurants, stores, offices, trains, buses, educational or health care facilities, auditoriums, arenas, and assembly and meeting rooms open to the public.

(3) "Establishment" means an enterprise under one roof that serves the public and for which a single person, agency, corporation, or legal entity is responsible.

~~(4) "Person" means an individual, partnership, corporation, association, political subdivision, or other entity.~~

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

~~(6) "Smoking area" means a designated area in which smoking is permitted.~~

~~(7) "Working--area" "Place of work" means an enclosed room where more than one employee works."~~

Section 2. Section 50-40-104, MCA, is amended to read:

"50-40-104. Designation or reservation of smoking or nonsmoking areas -- notice. (1) Except for those enclosed public places provided for in 50-40-105, the proprietor or manager of an enclosed public place shall:

(a) designate nonsmoking areas with easily readable signs; or

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

(c) designate the entire area as a smoking area by posting a sign that is clearly visible to the public stating this designation.

(2) The proprietor or manager of an establishment containing enclosed public places shall post a sign in a

1 conspicuous place at all public entrances to the
2 establishment stating, in a manner that can be easily read
3 and understood, whether or not areas within the
4 establishment have been reserved for nonsmokers."

5 ~~NEW SECTION. Section 3. Stricter regulation of~~
6 ~~smoking permitted. (1) A local governmental entity may~~
7 ~~adopt local ordinances or other regulations that provide~~
8 ~~regulation of smoking that is more strict than that provided~~
9 ~~in this part.~~

10 ~~(2) Nothing in this part prohibits proprietor groups,~~
11 ~~including but not limited to restaurant, hotel, or hospital~~
12 ~~associations, from imposing stricter regulation of smoking~~
13 ~~upon their members.~~

14 ~~Section 4. Section 50-40-108, MCA, is amended to read:~~

15 ~~"50-40-108. Enforcement. The provisions of this part~~
16 ~~shall be supervised and enforced by the local boards of~~
17 ~~health under the direction of the departments. (1) The city~~
18 ~~attorney or county attorney in whose jurisdiction a~~
19 ~~violation of this part is alleged to have occurred or the~~
20 ~~attorney general shall file a complaint in the appropriate~~
21 ~~court for an injunction, a criminal penalty as provided in~~
22 ~~section 51, or both, upon receipt of an affidavit of any~~
23 ~~person alleging a violation of this part.~~

24 ~~(2) If the city attorney, county attorney, or attorney~~
25 ~~general fails to file a complaint as provided in subsection~~

1 ~~(1) within 30 days after receipt of an affidavit alleging a~~
2 ~~violation of this part, a person may file a complaint~~
3 ~~seeking a civil penalty as provided in section 51, and~~
4 ~~recover his costs and reasonable attorney's fees if he~~
5 ~~prevails."~~

6 ~~NEW SECTION. Section 3. Penalties. (1) A person who~~
7 ~~knowingly, as defined in 45-2-101, violates the provisions~~
8 ~~of this part is guilty of a misdemeanor and is subject to a~~
9 ~~fine of not more than \$25.~~

10 ~~(2) A person who purposely, as defined in 45-2-101,~~
11 ~~violates the provisions of this part is guilty of a~~
12 ~~misdemeanor and is subject to a fine of not more than \$50~~
13 ~~for the first offense and not more than \$100 for each~~
14 ~~subsequent offense.~~

15 ~~(3) If the city or county attorney or the attorney~~
16 ~~general fails to enforce this part as provided in section~~
17 ~~41, a person who violates any provision of this part is~~
18 ~~subject to a civil penalty not to exceed \$100.~~

19 ~~Section 4. Codification instruction. Sections SECTION~~
20 ~~3 and 5 are IS intended to be codified as an integral part~~
21 ~~of Title 50, chapter 40, part 1, and the provisions of Title~~
22 ~~50, chapter 40, part 1, apply to sections SECTION 3 and 5.~~

-End-

1 HOUSE BILL NO. 794

2 INTRODUCED BY ELLERD, HARPER, McBRIDE, CONN, WALDRON,

3 DOZIER, WINSLOW, ANDREASON, BERGENE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
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24 that serves the public and for which a single person,
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2 corporation, association, political subdivision, or other
3 entity.4 ~~(4)~~(5) "Smoking" or "to smoke" includes the act of
5 lighting, smoking, or carrying a lighted cigar, cigarette,
6 pipe, or any smokable product.7 (6) "Smoking area" means a designated area in which
8 smoking is permitted.9 ~~(5)~~(7) "Working--area" "Place of work" means an
10 enclosed room where more than one employee works."

11 Section 2. Section 50-40-104, MCA, is amended to read:

12 "50-40-104. Designation or reservation of smoking or
13 nonsmoking areas -- notice. (1) Except for those enclosed
14 public places provided for in 50-40-105, the proprietor or
15 manager of an enclosed public place shall:16 (a) designate nonsmoking areas with easily readable
17 signs; or18 (b) reserve a part of the public place for nonsmokers
19 and post easily readable signs designating a smoking area;
20 or21 (c) designate the entire area as a smoking area by
22 posting a sign that is clearly visible to the public stating
23 this designation.24 (2) The proprietor or manager of an establishment
25 containing enclosed public places shall post a sign in a

1 conspicuous place at all public entrances to the
 2 establishment stating, in a manner that can be easily read
 3 and understood, whether or not areas within the
 4 establishment have been reserved for nonsmokers.*

5 (3) THE PROPRIETOR OR MANAGER OF AN ESTABLISHMENT
 6 CONTAINING BOTH A RESTAURANT AND A TAVERN, IN WHICH SOME
 7 PATRONS CHOOSE TO EAT THEIR MEALS IN THE TAVERN, IS NOT
 8 REQUIRED BY THIS PART TO POST A SIGN DESCRIBED IN SUBSECTION
 9 (2) IN THE TAVERN AREA OF THE ESTABLISHMENT.

10 NEW SECTION. Section 3. Stricter regulation of
 11 smoking permitted. (1) A local governmental entity may
 12 adopt local ordinances or other regulations that provide
 13 regulation of smoking that is more strict than that provided
 14 in this part.

15 (2) Nothing in this part prohibits proprietor groups,
 16 including but not limited to restaurant, hotel, or hospital
 17 associations, from imposing stricter regulation of smoking
 18 upon their members.

19 Section 4. Section 50-40-100, MCA, is amended to read:

20 "50-40-100. Enforcement. The provisions of this part
 21 shall be supervised and enforced by the local boards of
 22 health under the direction of the department. (1) The city
 23 attorney or county attorney in whose jurisdiction a
 24 violation of this part is alleged to have occurred or the
 25 attorney general shall file a complaint in the appropriate

1 court for an injunction or criminal penalty as provided in
 2 [section 5] or both, upon receipt of an affidavit of any
 3 person alleging a violation of this part.

4 (2) If the city attorney, county attorney or attorney
 5 general fails to file a complaint as provided in subsection
 6 (1) within 30 days after receipt of an affidavit alleging a
 7 violation of this part, a person may file a complaint
 8 seeking a civil penalty as provided in [section 5] and
 9 recover his costs and reasonable attorney's fees if the
 10 prevails."

11 NEW SECTION. Section 3. Penalties. (1) A person who
 12 knowingly, as defined in 45-2-101, violates the provisions
 13 of this part FAILS TO DESIGNATE OR RESERVE A SMOKING OR
 14 NONSMOKING AREA IN THEIR ESTABLISHMENT AS PROVIDED FOR IN
 15 50-40-104 is guilty of a misdemeanor and is subject to a
 16 fine of not more than \$25.

17 (2) A person who purposely, as defined in 45-2-101,
 18 violates the provisions of this part is guilty of a
 19 misdemeanor and is subject to a fine of not more than \$50
 20 for the first offense and not more than \$100 for each
 21 subsequent offense.

22 (3) If the city or county attorney or the attorney
 23 general fails to enforce this part as provided in [section
 24 4], a person who violates any provision of this part is
 25 subject to a civil penalty not to exceed \$100.

1 Section 4. Codification instruction. ~~Sections~~ SECTION
2 ~~3 and-5-are~~ IS intended to be codified as an integral part
3 of Title 50, chapter 40, part 1, and the provisions of Title
4 50, chapter 40, part 1, apply to ~~sections~~ SECTION 3 and-5.

-End-

March 26, 1981

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

That House Bill No. 794 be amended as follows:

1. Page 3,

Following: line 4.

Insert: "(3) The proprietor or manager of an establishment containing both a restaurant and a tavern, in which some patrons choose to eat their meals in the tavern, is not required by this part to post a sign described in subsection (2) in the tavern area of the establishment."

2. Page 4, lines 7 and 8.

Following: "~~45-2-1017~~"

Strike: "violates the provisions of this part"

Insert: "fails to designate or reserve a smoking or non smoking area in their establishment as provided for in 50-40-104"