

HB 675 INTRODUCED BY MILES, ET AL.
REVISING AND CLARIFYING THE CLEAN INDOOR AIR ACT

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|------|------------------------------------|----|----|
| 2/09 | INTRODUCED | | |
| 2/09 | REFERRED TO HUMAN SERVICES & AGING | | |
| 2/17 | HEARING | | |
| 2/18 | COMMITTEE REPORT--BILL PASSED | | |
| 2/20 | 2ND READING NOT PASSED | 50 | 48 |
| 2/21 | RECONSIDERED ACTION ON 2ND READING | 48 | 47 |
| 2/21 | 2ND READING NOT PASSED AS AMENDED | 57 | 38 |

Cobb
Nelson
Dillon
Walker

House BILL NO. 675
INTRODUCED BY ~~Major Vincent~~ ~~Leads~~ ~~Bulger~~ ~~Styck~~
~~Raney~~ ~~Bankson~~ ~~Ream~~ ~~Moore~~ ~~Thomas~~
Clarifying the Montana Clean Indoor Air Act; Requiring that
Raming
Mack

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2
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND
5 CLARIFYING THE MONTANA CLEAN INDOOR AIR ACT; REQUIRING THAT
6 A NONSMOKING AREA BE DESIGNATED IN EVERY ENCLOSED PUBLIC
7 PLACE AND THAT SMOKING BE PROHIBITED IN THE WORK AREA OF
8 NONSMOKERS IN SOME PLACES OF WORK; FINING A PERSON WHO
9 SMOKES IN A DESIGNATED NONSMOKING AREA AND INCREASING THE
10 FINE FOR FAILURE TO DESIGNATE A NONSMOKING AREA; ALLOWING AN
11 INJUNCTION TO BE SOUGHT TO ENFORCE COMPLIANCE WITH THE ACT;
12 AMENDING SECTIONS 50-40-102 THROUGH 50-40-105 AND 50-40-107
13 THROUGH 50-40-109, MCA; AND REPEALING SECTION 50-40-201,
14 MCA."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 Section 1. Section 50-40-102, MCA, is amended to read:
18 "50-40-102. Purpose. The purpose of this part is to
19 protect the health of nonsmokers in ~~public places~~ and to
20 provide for reserved areas in ~~some public places~~ for those
21 who choose to smoke in enclosed public places."

22 Section 2. Section 50-40-103, MCA, is amended to read:
23 "50-40-103. Definitions. As used in this part, the
24 following definitions apply:

25 (1) "Department" means the department of health and

1 environmental sciences provided for in Title 2, chapter 15,
2 part 21.

3 (2) "Enclosed public place" means any indoor area,
4 room, or vehicle used by the general public or serving as a
5 place of work, including but not limited to restaurants,
6 stores, offices, trains, buses, educational or health care
7 facilities, auditoriums, arenas, and assembly and meeting
8 rooms open to the public.

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

12 (4) "Nonsmoking area" means a designated area in which
13 smoking is prohibited.

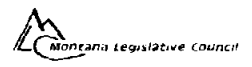
14 (4)(5) "Person" means an individual, ~~partnership,~~
15 ~~corporation, association, political subdivision, or other~~
16 ~~entity.~~

17 (5)(6) "Smoking" or "to smoke" includes the act of
18 lighting, smoking, or carrying a lighted cigar, cigarette,
19 pipe, or any smokable product.

20 (6)(7) "Smoking area" means a designated area in which
21 smoking is permitted.

22 (7)(8) "Place of work" means an enclosed room where
23 more than one employee works."

24 Section 3. Section 50-40-104, MCA, is amended to read:
25 "50-40-104. Designation or reservation of smoking or



1 nonsmoking areas -- notice. (1) Except for ~~those enclosed~~
 2 ~~public places provided for in 50-40-105 and as provided in~~
 3 ~~50-40-201~~ taverns or bars where meals are not served, the
 4 proprietor, or manager, or person in charge of an
 5 establishment containing an enclosed public place shall:

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

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

11 ~~(c)~~ (b) designate the entire area enclosed public place
 12 as a smoking nonsmoking area by posting a sign that is
 13 clearly visible to the public stating this designation; and

14 ~~(2)~~ (c) ~~The proprietor or manager of an establishment~~
 15 ~~containing enclosed public places shall~~ post a sign in a
 16 conspicuous place at all public entrances to the
 17 establishment stating, in a manner that can be easily read
 18 and understood, whether or not areas within the
 19 establishment have been reserved for nonsmokers smokers.

20 ~~(3)~~ (2) The proprietor, or manager, or person in charge
 21 of an establishment containing both a restaurant and a
 22 tavern, in which some patrons choose to eat their meals in
 23 the tavern, is not required by this part to designate the
 24 areas or post a sign the signs described in subsection ~~(2)~~
 25 (1) in the tavern area of the establishment.

1 (3) The manager or person in charge of an enclosed
 2 public place that functions primarily as an office or other
 3 place of work rather than to provide personal service and
 4 access to the general public must designate as a nonsmoking
 5 area a portion of the place of work large enough to include
 6 the customary work areas of all nonsmoking employees
 7 assigned to that place of work."

8 Section 4. Section 50-40-105, MCA, is amended to read:
 9 "50-40-105. No smoking signs in certain places. No
 10 smoking signs shall be conspicuously posted in elevators,
 11 museums, galleries, kitchens, restrooms, and libraries of
 12 any establishment doing business with the general public."

13 Section 5. Section 50-40-107, MCA, is amended to read:
 14 "50-40-107. Exemptions Exemption. The following shall
 15 be Taverns or bars where meals are not served are exempt
 16 from this part:

17 ~~(1)~~ restrooms;
 18 ~~(2)~~ taverns or bars where meals are not served;
 19 ~~(3)~~ vehicles or rooms seating six or fewer members of
 20 the public."

21 Section 6. Section 50-40-108, MCA, is amended to read:
 22 "50-40-108. Enforcement -- injunction. (1) The
 23 provisions of this part shall be supervised and enforced by
 24 the local boards of health under the direction of the
 25 department Local boards of health must supervise and enforce

1 the provisions of this part.

2 (2) The local board of health of the county in which a
3 violation of this part occurs may bring an action to enjoin
4 a violation of any provision of this part."

5 Section 7. Section 50-40-109, MCA, is amended to read:

6 "50-40-109. Penalties. (1) A person proprietor,
7 manager, or person in charge of an enclosed public place who
8 knowingly fails to designate the entire enclosed public
9 place as a nonsmoking area or reserve a smoking or
10 nonsmoking area in his establishment as provided for in
11 50-40-104 is--guilty--of--a-misdemeanor-and-is-subject-to-a
12 fine-of-not-more-than-\$25, shall be fined an amount not to
13 exceed \$100. Each day that a violation continues constitutes
14 a separate offense.

15 (2) A person who knowingly smokes in a part of an
16 enclosed public space that is not designated as a smoking
17 area under 50-40-104 shall be fined an amount not to exceed
18 \$50.

19 (3) Fines must be paid to the county treasurer of the
20 county in which the enclosed public place is located or
21 where the unauthorized smoking occurred."

22 NEW SECTION. Section 8. Inspections. An authorized
23 representative of the local health officer or the department
24 may inspect an enclosed public place during its working
25 hours as often as necessary to determine compliance with the

1 provisions of this part.

2 NEW SECTION. Section 9. Repealer. Section 50-40-201,
3 MCA, is repealed.

4 NEW SECTION. Section 10. Codification instruction.
5 Section 8 is intended to be codified as an integral part of
6 Title 50, chapter 40, and the provisions of Title 50,
7 chapter 40, apply to section 8.

8 NEW SECTION. Section 11. Saving clause. This act does
9 not affect rights and duties that matured, penalties that
10 were incurred, or proceedings that were begun before the
11 effective date of this act.

12 NEW SECTION. Section 12. Severability. If a part of
13 this act is invalid, all valid parts that are severable from
14 the invalid part remain in effect. If a part of this act is
15 invalid in one or more of its applications, the part remains
16 in effect in all valid applications that are severable from
17 the invalid applications.

-End-

Cobb
Mercer
William
Walker

Steph

1 House BILL NO. 675

2 INTRODUCED BY Mrs. Vincent Leader Bulger

3 Raney Baudon Ream Moore Thomas

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13 smoking is prohibited.

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15 ~~corporation,~~ ~~association,~~ ~~political subdivision,~~ ~~or other~~
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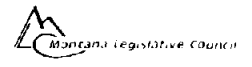
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-2- SECOND READING
HB-675

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-End-