

SENATE BILL 213

Introduced by Pipinich, et al.

1/20	Introduced
1/20	Referred to State Administration
1/20	First Reading
1/20	Fiscal Note Received (sic)
1/20	Fiscal Note Requested (sic)
1/23	Fiscal Note Printed
1/29	Hearing
2/08	Committee Report--Bill Passed as Amended
2/10	2nd Reading Passed as Amended
2/11	3rd Reading Passed

	Transmitted to House
2/23	Referred to State Administration
2/23	First Reading
3/11	Hearing
3/17	Tabled in Committee

1 *Senate* BILL NO. *213*
 2 INTRODUCED BY *Senator Kennedy*
 3 *By the House NA 11-10-10*
 4 A BILL FOR AN ACT ENTITLED: *AN ACT PROVIDING THAT REVENUE*
 5 *FROM TAXES ON CIGARETTES AND OTHER TOBACCO PRODUCTS MAY NOT*
 6 BE USED TO CONSTRUCT OR MAINTAIN BUILDINGS UNLESS A
 7 DESIGNATED SMOKING AREA IS PROVIDED; REQUIRING THAT PUBLIC
 8 AND PRIVATE EMPLOYERS PROVIDE COMFORTABLE DESIGNATED SMOKING
 9 AREAS FOR EMPLOYEES; AMENDING SECTIONS 17-7-202, 50-40-104,
 10 50-40-107, 50-40-201, 50-40-202, 50-40-204, AND 50-40-205,
 11 MCA; AND PROVIDING AN APPLICABILITY DATE."
 12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 NEW SECTION. Section 1. Restricted use of tax revenue
 15 collected on cigarettes and other tobacco products.
 16 Cigarette tax revenue allocated to the capital projects and
 17 debt service fund types in the long-range building program
 18 under 16-11-119 and 17-5-408 and tobacco tax revenue
 19 allocated to the debt service account under 17-5-408 may not
 20 be used to pay for the costs of constructing or maintaining
 21 a building unless a designated smoking area is provided
 22 pursuant to 50-40-204.
 23 Section 2. Section 17-7-202, MCA, is amended to read:
 24 "17-7-202. Preparation of building programs and
 25 submission to department of administration. (1) Before July

1 of each even-numbered year, each state agency and
 2 institution shall submit to the department of
 3 administration, on forms furnished by the department, a
 4 proposed long-range building program, if any, for the agency
 5 or institution. Each agency and institution shall furnish
 6 any additional information requested by the department
 7 relating to the utilization of or need for buildings.

8 (2) The department shall examine the information
 9 furnished by each agency and institution and shall gather
 10 whatever additional information is necessary and conduct
 11 whatever surveys are necessary in order to provide a factual
 12 basis for determining the need for and the feasibility of
 13 the construction of buildings. The information compiled by
 14 the department shall must be submitted to the governor
 15 before December 1 of each even-numbered year.

16 (3) An agency requesting money for the maintenance or
 17 construction of a building in which public employees work
 18 shall prove to the department that the building has a
 19 designated smoking area pursuant to 50-40-204."

20 Section 3. Section 50-40-104, MCA, is amended to read:

21 "50-40-104. Designation or reservation of smoking or
 22 nonsmoking areas -- notice. (1) The proprietor or manager of
 23 an enclosed public place shall:

24 (a) designate nonsmoking areas with easily readable
 25 signs;

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

4 (c) designate the entire area as a smoking area by
5 posting a sign that is clearly visible to the public stating
6 this designation; ~~or~~

7 ~~{d}--designate--and--reserve--the--entire--area---as---a~~
8 ~~nonsmoking-area.~~

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

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

20 (4) The proprietor or manager of an intrastate bus that
21 is not chartered shall prohibit smoking in all parts of the
22 bus.

23 (5) The proprietor or manager of an enclosed public
24 place shall designate a comfortable, accessible smoking area
25 for employees."

1 **Section 4.** Section 50-40-107, MCA, is amended to read:

2 "50-40-107. Exemptions. The following ~~shall--be~~ are
3 exempt from this part:

4 (1) restrooms;
5 (2) taverns or bars where meals are not served;
6 (3) vehicles or rooms seating six or fewer members of
7 the public;

8 ~~{4}--school-district-buildings-and-facilities-designated~~
9 ~~as-tobacco-free-by-the--board--of--trustees--of--the--school~~
10 ~~district;~~

11 ~~{5}--community---college---buildings---or---facilities~~
12 ~~designated-as-tobacco-free-by-the-board-of-trustees--of--the~~
13 ~~community-college-district;~~

14 ~~{6}--state-government-buildings-declared-smoke-free."~~

15 **Section 5.** Section 50-40-201, MCA, is amended to read:

16 "50-40-201. Reservation of smoking and nonsmoking areas
17 in work areas in local government buildings. In offices and
18 work areas in buildings maintained by a political
19 subdivision, ~~except--a-school-or-community-college-facility~~
20 ~~designated-as-tobacco-free-by-the-board-of-trustees--of--the~~
21 ~~school--district--or--community--college--district,~~ in which
22 seven or more employees of the political subdivision are
23 employed, the manager or person in charge of the work area
24 shall arrange nonsmoking and smoking areas in a convenient
25 area."

Section 6. Section 50-40-202, MCA, is amended to read:

"50-40-202. **Public policy.** In recognition of the increased health hazards of passive smoke on the nonsmoker, it is the declared public policy of the state of Montana that all certain areas in buildings maintained by the state are to be smoke-free. It is further the policy of the state that designated smoking areas must be established in buildings maintained or occupied by the state and that these smoking areas must provide adequate space and ventilation to provide a comfortable break area for smokers."

Section 7. Section 50-40-204, MCA, is amended to read:

"50-40-204. ~~Smoke-free----~~~~buildings-----~~~~designated~~ Designated smoking areas. (1) In buildings maintained by the state, smoking is prohibited in the following areas:

- (a) general office space;
- (b) auditoriums, classrooms, and conference rooms;
- (c) elevators;
- (d) corridors, lobbies, restrooms, and stairways, except as provided in subsections (2)(b) and (4);
- (e) medical care facilities;
- (f) libraries; and
- (g) hazardous areas.

(2) An Subject to [section 1], an agency head shall establish at least one "designated smoking area" in each building, except in those areas listed in subsection (1),

suited by architectural design and functional purpose to be used as a smoking area.

(a) An agency head may designate a smoking area in a cafeteria. The size of the area must be determined by an estimate of the number of smoking and nonsmoking patrons served.

(b) An agency head may designate a corridor, lobby, or restroom as a smoking area when it is not possible to designate another smoking area.

(3) In establishing designated smoking areas, as provided in subsection (2), an agency head shall consider:

- (a) the number of smokers and nonsmokers in the agency;
- (b) the building ventilation system;
- (c) the availability of space; and
- (d) the protection of nonsmokers from involuntary exposure to smoke.

(4) Agencies in multitenant buildings are encouraged to work together to identify designated smoking areas."

Section 8. Section 50-40-205, MCA, is amended to read:

"50-40-205. **Signing -- smoking receptacles.** (1) ~~The department--shall--place--signs--near--each--entrance--to--a building--stating--that--the--building--is--smoke-free--~~

(2) An agency head shall place signs stating where the designated smoking areas are located.

(3) (2) An agency head is responsible for providing

1 adequate ash trays or receptacles in the designated smoking
2 areas.

3 ~~(4)~~(3) In buildings of historical significance, the
4 department shall place signs that are aesthetically pleasing
5 and that fit the architectural style of the building."

6 NEW SECTION. **Section 9. Applicability.** [Section 1]
7 applies to tax revenue dedicated after [the effective date
8 of this act].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0213, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: This bill would stipulate that revenue from taxes on cigarettes and other tobacco products could not be used to construct or maintain buildings unless a designated smoking area is provided and require that public and private employers provide comfortable designated smoking areas for employees.

ASSUMPTIONS:

1. The Department of Administration will revise the forms relating to long-range building program requests. The revised forms will include a section for agencies to verify the facility has a designated smoking area pursuant to 50-40-204, MCA. If no designated smoking area exists, the Department of Administration will not recommend the project for inclusion in the long-range building program.
2. Projects not building specific, such as utility repairs and site improvements, would not be affected by this statute.
3. Requests to develop designated smoking areas in existing buildings would not be given a high enough priority to be funded with LRBP funds. Development of designated smoking areas would need to be funded with agency operational budgets.

FISCAL IMPACT:

No fiscal impact for the Long-Range Building Program.

State operating budgets would have to provide the resources needed to develop designated smoking areas.

David Lewis 1-22-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Bob Pipinich 1/23/93
BOB PIPINICH, PRIMARY SPONSOR DATE

Fiscal Note for SB0213, as introduced

SB 213

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

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construction of a building in which public employees work
shall prove to the department that the building has a
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Section 3. Section 50-40-104, MCA, is amended to read:

"50-40-104. Designation or reservation of smoking or
nonsmoking areas -- notice. (1) The proprietor or manager of
an enclosed public place shall:

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5 or
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8 this designation; ~~or~~
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15 and understood, whether or not areas within the
16 establishment have been reserved for nonsmokers.
- 17 (3) The proprietor or manager of an establishment
18 containing both a restaurant and a tavern, in which some
19 patrons choose to eat their meals in the tavern, is not
20 required by this part to post a sign described in subsection
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23 is not chartered shall prohibit smoking in all parts of the
24 bus.
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9 the public;
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- 13 ~~{5}--community---college---buildings---or---facilities~~
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