

SENATE BILL 221

Introduced by Klampe, et al.

1/20	Introduced
1/20	Referred to Local Government
1/20	First Reading
2/04	Hearing
2/12	Committee Report--Bill Passed
2/15	2nd Reading Passed as Amended
2/16	3rd Reading Failed
2/17	Reconsidered Previous Action and Placed Back on 3rd Reading
2/17	3rd Reading Failed (Chair Ruled to Preclude this 3rd Reading Action and to Place the Bill on 3rd Reading the Following Legislative Day)
2/18	3rd Reading Failed

1 Senate BILL NO. 221 *74th Day*

2 INTRODUCED BY *Terrell Klayton Yellowtail* *Stanford* *Don*

3 *McClan* *Harding* *Franklin* *Donner* *Moran* *Wilson*

4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A LOCAL BOARD

5 OF HEALTH TO ADOPT REGULATIONS RESTRICTING OR PROHIBITING

6 SMOKING IN ENCLOSED PUBLIC PLACES; AND AMENDING SECTIONS

7 50-2-116, 50-40-103, 50-40-104, 50-40-108, AND 50-40-109,

8 MCA."

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

11 **Section 1.** Section 50-2-116, MCA, is amended to read:

12 "50-2-116. Powers and duties of local boards. (1) Local
13 boards shall:

14 (a) appoint a local health officer who is a physician
15 or a person with a master's degree in public health or the
16 equivalent and with appropriate experience, as determined by
17 the department, and shall fix ~~his~~ the officer's salary;

18 (b) elect a chairman presiding officer and other
19 necessary officers;

20 (c) employ necessary qualified staff;

21 (d) adopt bylaws to govern meetings;

22 (e) hold regular meetings quarterly and hold special
23 meetings as necessary;

24 (f) supervise destruction and removal of all sources of
25 filth that cause disease;

1 (g) guard against the introduction of communicable
2 disease;

3 (h) supervise inspections of public establishments for
4 sanitary conditions;

5 (i) adopt necessary regulations that are no less
6 stringent than state standards for the control and disposal
7 of sewage from private and public buildings that is not
8 regulated by Title 75, chapter 6, or Title 76, chapter 4.
9 The regulations must describe standards for granting
10 variances from the minimum requirements that are identical
11 to standards promulgated by the board of health and
12 environmental sciences and must provide for appeal of
13 variance decisions to the department as required by
14 75-5-305.

15 (2) Local boards may:

16 (a) quarantine persons who have communicable diseases;

17 (b) require isolation of persons or things that are
18 infected with communicable diseases;

19 (c) furnish treatment for persons who have communicable
20 diseases;

21 (d) prohibit the use of places that are infected with
22 communicable diseases;

23 (e) require and provide means for disinfecting places
24 that are infected with communicable diseases;

25 (f) accept and spend funds received from a federal

1 agency, the state, a school district, or other persons;

2 (g) contract with another local board for all or a part

3 of local health services;

4 (h) reimburse local health officers for necessary

5 expenses incurred in official duties;

6 (i) abate nuisances affecting public health and safety

7 or bring action necessary to restrain the violation of

8 public health laws or rules;

9 (j) adopt necessary fees to administer regulations for

10 the control and disposal of sewage from private and public

11 buildings (fees must be deposited with the county

12 treasurer);

13 (k) adopt regulations restricting or prohibiting

14 smoking in enclosed public places; and

15 ~~(k)~~(l) adopt rules that do not conflict with rules

16 adopted by the department:

17 (i) for the control of communicable diseases;

18 (ii) for the removal of filth that might cause disease

19 or adversely affect public health;

20 (iii) on sanitation in public buildings that affects

21 public health;

22 (iv) for heating, ventilation, water supply, and waste

23 disposal in public accommodations that might endanger human

24 lives; and

25 (v) for the maintenance of sewage treatment systems

1 that do not discharge an effluent directly into state waters

2 and that are not required to have an operating permit as

3 required by rules adopted under 75-5-401."

4 **Section 2.** Section 50-40-103, MCA, is amended to read:

5 "50-40-103. Definitions. As used in this part, the

6 following definitions apply:

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

8 environmental sciences provided for in Title 2, chapter 15,

9 part 21.

10 (2) "Enclosed public place" means any indoor area,

11 room, or vehicle used by the general public or serving as a

12 place of work, including but not limited to restaurants,

13 stores, offices, trains, buses, educational or health care

14 facilities, auditoriums, arenas, and assembly and meeting

15 rooms open to the public.

16 (3) "Establishment" means an enterprise under one roof

17 that serves the public and for which a single person,

18 agency, corporation, or legal entity is responsible.

19 (4) "Local board of health" or "local board" means a

20 local board as defined in 50-2-101;

21 ~~(4)~~(5) "Person" means an individual, partnership,

22 corporation, association, political subdivision, or other

23 entity.

24 ~~(5)~~(6) "Place of work" means an enclosed room where

25 more than one employee works.

1 ~~(6)~~(7) "Smoking" or "to smoke" includes the act of
2 lighting, smoking, or carrying a lighted cigar, cigarette,
3 pipe, or any smokable product.

4 ~~(7)~~(8) "Smoking area" means a designated area in which
5 smoking is permitted."

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

7 "50-40-104. Designation or reservation of smoking or
8 nonsmoking areas -- notice. (1) The Unless inconsistent with
9 more restrictive regulations adopted by the local board of
10 health, the proprietor or manager of an enclosed public
11 place shall:

12 (a) designate nonsmoking areas with easily readable
13 signs;

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

16 (c) designate the entire area as a smoking area by
17 posting a sign that is clearly visible to the public stating
18 this designation; or

19 (d) designate and reserve the entire area as a
20 nonsmoking area.

21 (2) The proprietor or manager of an establishment
22 containing enclosed public places shall post a sign in a
23 conspicuous place at all public entrances to the
24 establishment stating, in a manner that can be easily read
25 and understood, whether or not areas within the

1 establishment have been reserved for nonsmokers.

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

7 (4) The proprietor or manager of an intrastate bus that
8 is not chartered shall prohibit smoking in all parts of the
9 bus."

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

11 "50-40-108. Enforcement -- local board of health to
12 adopt regulations. (1) The provisions of this part shall
13 must be supervised and enforced by the local boards of
14 health under the direction of the department.

15 (2) The local board of health may adopt regulations
16 restricting or prohibiting smoking in enclosed public
17 places. Prior to the adoption of regulations, the local
18 board shall hold a public hearing in order to accept oral
19 and written testimony for and against the proposed
20 regulations. The public hearing may be held at a regular or
21 a special meeting of the local board."

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

23 "50-40-109. Penalties. A If a person who fails to
24 designate or reserve a smoking or nonsmoking area in his the
25 person's establishment as provided for in 50-40-104 or in

LC 0677/01

1 accordance with the regulations adopted by the local board
2 of health, the local board shall, if the designation or
3 reservation is not made within 10 days after the board finds
4 a failure, levy upon the person a civil penalty of is-guilty
5 of--a--misdemeanor-and-is-subject-to-a-fine-of-not-more-than
6 \$25 per day of violation."

-End-

APPROVED BY COMM.
ON LOCAL GOVERNMENT

1 *Senators* BILL NO. *221* *7th District*
2 INTRODUCED BY *Senators Klump, Hellebrand, Stanford, Davis, Bishop, Powell, Wolf, Smith, Harty, Johnson, Harding, Jenkins, Donnelly, Morris, Long, Wilson, Hoyer, Kofsky, Foss, Ream, Sparks, Miller, Reg, Spring, Anderson, Estabrook, Dwyer*
3 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A LOCAL BOARD
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6 50-2-116, 50-40-103, 50-40-104, 50-40-108, AND 50-40-109,
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15 or a person with a master's degree in public health or the
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17 the department, and shall fix his the officer's salary;

18 (b) elect a chairman presiding officer and other
19 necessary officers;

20 (c) employ necessary qualified staff;

21 (d) adopt bylaws to govern meetings;

22 (e) hold regular meetings quarterly and hold special
23 meetings as necessary;

24 (f) supervise destruction and removal of all sources of
25 filth that cause disease;

1 (g) guard against the introduction of communicable
2 disease;

3 (h) supervise inspections of public establishments for
4 sanitary conditions;

5 (i) adopt necessary regulations that are no less
6 stringent than state standards for the control and disposal
7 of sewage from private and public buildings that is not
8 regulated by Title 75, chapter 6, or Title 76, chapter 4.
9 The regulations must describe standards for granting
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agency, the state, a school district, or other persons;

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(i) abate nuisances affecting public health and safety or bring action necessary to restrain the violation of public health laws or rules;

(j) adopt necessary fees to administer regulations for the control and disposal of sewage from private and public buildings (fees must be deposited with the county treasurer);

(k) adopt regulations restricting or prohibiting smoking in enclosed public places; and

~~(k)~~(1) adopt rules that do not conflict with rules adopted by the department:

(i) for the control of communicable diseases;

(ii) for the removal of filth that might cause disease or adversely affect public health;

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(iv) for heating, ventilation, water supply, and waste disposal in public accommodations that might endanger human lives; and

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that do not discharge an effluent directly into state waters and that are not required to have an operating permit as required by rules adopted under 75-5-401."

Section 2. 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) "Local board of health" or "local board" means a local board as defined in 50-2-101;

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

~~(5)~~(6) "Place of work" means an enclosed room where more than one employee works.

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INTRODUCED BY KLAMPE, YELLOWTAIL, STANFORD, TOWE, WELDON,
TOEWS, BIANCHI, KENNEDY, RYAN, BRUSKI-MAUS, GAGE,
JACOBSON, ECK, MCCLERNAN, HARDING, FRANKLIN, DOHERTY,
MESAROS, SCHYE, WILSON, HAGER, KADAS, HARPER, REAM,
BROOKE, HALLIGAN, REA, TOOLE, SPRING, HIBBARD, WINSLOW,
GRIMES, WALLIN, DOWELL, WATERMAN, ANDERSON, BOHLINGER

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this designation; or

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(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.

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17 \$25 per day of violation."

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