

*Harmon*

House BILL NO. 457

INTRODUCED BY

*Steve Lieb*  
*Smanson* *Forbes* *Emerson* *Barnett* *Arnott*  
*Wells* *BBaruhut*

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE POSSESSION OR CONSUMPTION OF TOBACCO PRODUCTS BY MINORS; AND PROVIDING FOR CRIMINAL MONETARY PENALTIES OR FOR ADJUDICATION BY A YOUTH COURT UPON CONVICTION."

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

**NEW SECTION. Section 1. Tobacco possession or consumption by persons under 18 years of age prohibited -- penalties.** (1) A person under 18 years of age who knowingly possesses or consumes a tobacco product commits the offense of possession or consumption of a tobacco product.

(2) A person convicted of possession or consumption of a tobacco product:

(a) shall be fined \$35 for a first offense, no less than \$75 or more than \$100 for a second offense, and no less than \$100 or more than \$250 for a third or subsequent offense; or

(b) may be adjudicated on a petition alleging the person to be a youth in need of supervision under the provisions of the Montana Youth Court Act provided for in Title 41, chapter 5.

(3) A person convicted of possession or consumption of a tobacco product may also be required to perform community service or to attend a tobacco cessation program.

(4) The fines collected under subsection (2) must be deposited to the credit of the general fund of the local government that employs the arresting officer, or if the arresting officer is an officer of the highway patrol, the fines must be credited to the county general fund in the county in which the arrest was made.

**NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 16, chapter 11, part 3, and the provisions of Title 16, chapter 11, part 3, apply to [section 1].

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0457, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act prohibiting the possession or consumption of tobacco products by minors; and providing for criminal monetary penalties or for adjudication by a youth court upon conviction.

ASSUMPTIONS:

**Department of Justice**

1. No impact to the Department of Justice.

**Department of Family Services**

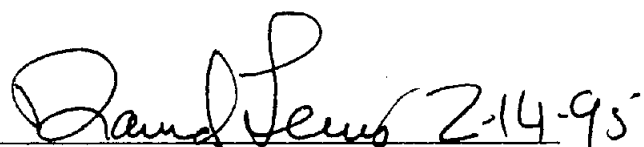
1. DFS assumes there will be persons under 18 years of age convicted of possession or consumption of tobacco in Youth Courts.
2. DFS is unable to determine the impact on local government revenues or expenses.
3. The community service and tobacco cessation programs will be managed and financed by local governments and the youth courts.

FISCAL IMPACT:

No fiscal impact to the Department of Family Services and the Department of Justice.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

1. There will be increased revenue to the local governments of the arresting officer.
2. Costs of managing community service programs and tobacco cessation programs may be off-set by fines collected.

  
\_\_\_\_\_  
DAVID LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

  
\_\_\_\_\_  
STEVE VICK, PRIMARY SPONSOR      DATE

Fiscal Note for HB0457, as introduced

**HB 457**

HOUSE BILL NO. 457

INTRODUCED BY VICK, EMERSON, BARNETT, ARNOTT, HARGROVE, SWANSON, FORBES,  
MARSHALL, WELLS, BARNHART

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE POSSESSION OR CONSUMPTION OF  
TOBACCO PRODUCTS BY MINORS; ~~AND~~ PROVIDING FOR CRIMINAL MONETARY PENALTIES OR FOR  
ADJUDICATION BY A YOUTH COURT UPON CONVICTION; AND AMENDING SECTION 41-5-203, MCA."

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

NEW SECTION. **Section 1. Tobacco possession or consumption by persons under 18 years of age prohibited -- penalties.** (1) A person under 18 years of age who knowingly possesses or consumes a tobacco product commits the offense of possession or consumption of a tobacco product.

(2) A person convicted of possession or consumption of a tobacco product:

(a) shall be fined \$35 for a first offense, no less than \$75 or more than \$100 for a second offense, and no less than \$100 or more than \$250 for a third or subsequent offense; or

(b) may be adjudicated on a petition alleging the person to be a youth in need of supervision under the provisions of the Montana Youth Court Act provided for in Title 41, chapter 5.

(3) A person convicted of possession or consumption of a tobacco product may also be required to perform community service or to attend a tobacco cessation program.

(4) The fines collected under subsection (2) must be deposited to the credit of the general fund of the local government that employs the arresting officer, or if the arresting officer is an officer of the highway patrol, the fines must be credited to the county general fund in the county in which the arrest was made.

SECTION 2. SECTION 41-5-203, MCA, IS AMENDED TO READ:

**"41-5-203. Jurisdiction of the court.** (1) Except as provided in subsection (2), the court has exclusive original jurisdiction of all proceedings under the Montana Youth Court Act in which a youth is alleged to be a delinquent youth, a youth in need of supervision, or a youth in need of care or concerning any person under 21 years of age charged with having violated any law of the state or ordinance of any

1 city or town other than a traffic or fish and game law prior to having become 18 years of age.

2 (2) Justice, municipal, and city courts have concurrent jurisdiction with the youth court over all  
3 alcoholic beverage, tobacco products, and gambling violations alleged to have been committed by a youth."

4

5 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an  
6 integral part of Title 16, chapter 11, part 3, and the provisions of Title 16, chapter 11, part 3, apply to  
7 [section 1].

8

-END-

## 1 HOUSE BILL NO. 457

2 INTRODUCED BY VICK, EMERSON, BARNETT, ARNOTT, HARGROVE, SWANSON, FORBES,  
3 MARSHALL, WELLS, BARNHART  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE POSSESSION OR CONSUMPTION OF  
6 TOBACCO PRODUCTS BY MINORS; ~~AND PROVIDING FOR CRIMINAL MONETARY PENALTIES OR FOR~~  
7 ADJUDICATION BY A YOUTH COURT UPON CONVICTION; AND AMENDING SECTION 41-5-203, MCA."  
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11 **NEW SECTION. Section 1. Tobacco possession or consumption by persons under 18 years of age**  
12 **prohibited -- penalties.** (1) A person under 18 years of age who knowingly possesses or consumes a  
13 tobacco product commits the offense of possession or consumption of a tobacco product.

14 (2) A person convicted of possession or consumption of a tobacco product:

15 (a) shall be fined \$35 for a first offense, no less than \$75 or more than \$100 for a second offense,  
16 and no less than \$100 or more than \$250 for a third or subsequent offense; or

17 (b) may be adjudicated on a petition alleging the person to be a youth in need of supervision under  
18 the provisions of the Montana Youth Court Act provided for in Title 41, chapter 5.

19 (3) A person convicted of possession or consumption of a tobacco product may also be required  
20 to perform community service or to attend a tobacco cessation program.

21 (4) The fines collected under subsection (2) must be deposited to the credit of the general fund of  
22 the local government that employs the arresting officer, or if the arresting officer is an officer of the  
23 highway patrol, the fines must be credited to the county general fund in the county in which the arrest was  
24 made.  
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28 exclusive original jurisdiction of all proceedings under the Montana Youth Court Act in which a youth is  
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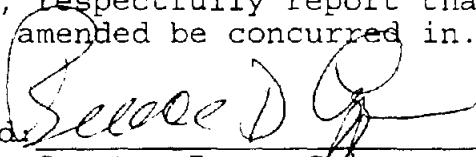
-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 7, 1995

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration HB 457 (third reading copy -- blue), respectfully report that HB 457 be amended as follows and as so amended be concurred in.

Signed 


Senator Bruce Crippen, Chair

That such amendments read:

1. Page 1, line 13.  
Following: "product"  
Insert: ", as defined in 16-11-302,"
2. Page 2, line 6 (in 2 places).  
Strike: "Title 16, chapter 11, part 3"  
Insert: "Title 45, chapter 5, part 6"

-END-

HB 457

  
Amd. Coord.  
SA Sec. of Senate

Sen. Holden  
Senator Carrying Bill

SENATE

531434SC.SPV

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3 MARSHALL, WELLS, BARNHART  
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7 ADJUDICATION BY A YOUTH COURT UPON CONVICTION; AND AMENDING SECTION 41-5-203, MCA."  
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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
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11 NEW SECTION. Section 1. Tobacco possession or consumption by persons under 18 years of age  
12 prohibited -- penalties. (1) A person under 18 years of age who knowingly possesses or consumes a  
13 tobacco product, AS DEFINED IN 16-11-302, commits the offense of possession or consumption of a  
14 tobacco product.

15 (2) A person convicted of possession or consumption of a tobacco product:

16 (a) shall be fined \$35 for a first offense, no less than \$75 or more than \$100 for a second offense,  
17 and no less than \$100 or more than \$250 for a third or subsequent offense; or

18 (b) may be adjudicated on a petition alleging the person to be a youth in need of supervision under  
19 the provisions of the Montana Youth Court Act provided for in Title 41, chapter 5.

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4 alcoholic beverage, tobacco products, and gambling violations alleged to have been committed by a youth."

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6 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an  
7 integral part of ~~Title 16, chapter 11, part 3~~ TITLE 45, CHAPTER 5, PART 6, and the provisions of ~~Title 16,~~  
8 ~~chapter 11, part 3~~ TITLE 45, CHAPTER 5, PART 6, apply to [section 1].

9

-END-