

House BILL NO. 204  
Ever

INTRODUCED BY \_\_\_\_\_

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE DUTIES AND RESPONSIBILITIES OF STATE AGENCY HEADS OR LOCAL GOVERNMENTS REGARDING DESIGNATED AREAS FOR SMOKING AND NONSMOKING IN STATE OR LOCAL GOVERNMENT BUILDINGS; AMENDING SECTIONS 50-40-201, 50-40-202, AND 50-40-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, under section 50-40-201, MCA, the Board of County Commissioners has the responsibility to designate nonsmoking and smoking areas in local government buildings; and

WHEREAS, under section 50-40-204, MCA, an agency head is required to consider various criteria when establishing a designated smoking area, including the numbers of employees who are smokers or nonsmokers, the ventilation of the building, space availability, protection of nonsmokers from involuntary exposure to smoke, and available resources; and

WHEREAS, the Board of County Commissioners must ensure the health, safety, and well-being of individuals employed by the county; and

WHEREAS, under section 50-40-202, MCA, the State of Montana has recognized the increased health hazards of passive smoke on nonsmokers.

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

Section 1. Section 50-40-201, MCA, is amended to read:

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

Section 2. Section 50-40-202, MCA, is amended to read:

1           **"50-40-202. Public policy.** In recognition of the increased health hazards of passive smoke on the  
 2 nonsmoker, it is the declared public policy of the state of Montana that certain buildings both owned and  
 3 occupied by the state may be smoke-free. It is further the policy of the state that designated smoking areas  
 4 may be established in certain other state buildings pursuant to 50-40-204."

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6           **Section 3.** Section 50-40-204, MCA, is amended to read:

7           **"50-40-204. Smoke-free buildings -- proscribed and optional designated smoking areas.** (1) In  
 8 buildings both owned and occupied by the state or both owned and occupied by a local government,  
 9 smoking is prohibited in the following areas:

- 10           (a) general office space;
- 11           (b) auditoriums, classrooms, and conference rooms;
- 12           (c) elevators;
- 13           (d) corridors, lobbies, restrooms, and stairways;
- 14           (e) medical care facilities;
- 15           (f) libraries; and
- 16           (g) hazardous areas.

17           (2) ~~(a) Subject to the prohibitions in subsection (1), in state-owned buildings, an agency head shall~~  
 18 ~~establish at least one designated smoking area in the building occupied by the agency; and~~ provided that  
 19 the building is suited by architectural design and functional purpose to have a designated smoking area,  
 20 as defined in 50-40-203;

21           (a) in a building owned and occupied by the state, an agency head may establish at least one  
 22 designated smoking area in the building occupied by the agency; and

23           (b) in a building owned and occupied by a local government, the governing body or its designee  
 24 may establish at least one designated smoking area in the building.

25           ~~(b) Buildings in the Montana university system and buildings housing items of artistic or historic~~  
 26 ~~value that may be damaged by smoke are exempt from the provisions of subsection (2)(a).~~

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

- 29           ~~(a) the number of smokers and nonsmokers in the agency;~~
- 30           ~~(b) the building ventilation system;~~

