

HOUSE BILL NO. 653

INTRODUCED BY W. CURDY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA CLEAN INDOOR AIR ACT TO PROHIBIT THE USE OF AN ELECTRONIC SMOKING DEVICE IN PUBLIC PLACES AND PLACES OF EMPLOYMENT; PROVIDING FOR AN EXCEPTION THAT AN ELECTRONIC SMOKING DEVICE MAY BE USED IN A PUBLIC SCHOOL BUILDING OR ON PUBLIC SCHOOL PROPERTY FOR CERTAIN EDUCATIONAL PURPOSES; EXTENDING THE IMPOSITION OF A FINE FOR UNLAWFUL USE OF AN ELECTRONIC SMOKING DEVICE; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 20-1-220, 50-40-102, AND 50-40-103, MCA."

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

**Section 1.** Section 20-1-220, MCA, is amended to read:

**"20-1-220. Use of tobacco product in public school building or on public school property prohibited.** (1) An individual may not use a tobacco product or electronic smoking device in a public school building or on public school property.

(2) Subsection (1) does not apply to the use of a tobacco product or electronic smoking device in a classroom or on other school property as part of a lecture, demonstration, or educational forum sanctioned by a school administrator or faculty member concerning the risks associated with use of a tobacco product or electronic smoking device.

(3) The principal of an elementary or secondary school, or the principal's designee, may enforce this section.

(4) A violation of this section is subject to the penalties provided in 50-40-115.

(5) For the purposes of this section, the following definitions apply:

(a) "Electronic smoking device" has the meaning provided in 50-40-103.

~~(a)~~(b) "Public school building" or "public school property":

(i) means public land, fixtures, buildings, or other property owned or occupied by an institution for the teaching of minor children that is established and maintained under the laws of the state of Montana at public expense; and

(ii) includes school playgrounds, school steps, parking lots, administration buildings, athletic facilities,

1 gymnasiums, locker rooms, and school buses.

2 ~~(b)~~(c) "Tobacco product" means a substance intended for human consumption that contains tobacco,  
3 including cigarettes, cigars, snuff, smoking tobacco, and smokeless tobacco."

4

5 **Section 2.** Section 50-40-102, MCA, is amended to read:

6 **"50-40-102. Intent -- purpose.** The legislature finds and declares that the purposes of this part are as  
7 follows:

8 (1) to protect the public health and welfare by prohibiting smoking in public places and places of  
9 employment;

10 (2) to recognize the right of nonsmokers to breathe ~~smoke-free~~ air that is free of smoke and certain  
11 exhaled small particulate matter and other exhaled toxins; and

12 (3) to recognize that the need to breathe ~~smoke-free~~ air that is free of smoke and certain exhaled small  
13 particulate matter and other exhaled toxins has priority over the desire to smoke."

14

15 **Section 3.** Section 50-40-103, MCA, is amended to read:

16 **"50-40-103. Definitions.** As used in this part, the following definitions apply:

17 (1) "Bar" means an establishment with a license issued pursuant to Title 16, chapter 4, that is devoted  
18 to serving alcoholic beverages for consumption by guests or patrons on the premises and in which the serving  
19 of food is only incidental to the service of alcoholic beverages or gambling operations. The term includes but is  
20 not limited to taverns, night clubs, cocktail lounges, and casinos.

21 (2) "Department" means the department of public health and human services provided for in 2-15-2201.

22 (3) "Electronic smoking device" means any device, regardless of whether it contains nicotine, used to  
23 deliver nicotine or another substance in any manner for the purpose of inhaling vapor or aerosol from the device.  
24 The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette,  
25 e-cigar, e-pipe, e-hookah, or vape pen or under any other product name or descriptor.

26 ~~(3)~~(4) "Enclosed public place" means an indoor area, room, or vehicle that the general public is allowed  
27 to enter or that serves as a place of work, including but not limited to the following:

28 (a) restaurants;

29 (b) stores;

30 (c) public and private office buildings and offices, including all office buildings and offices of political

1 subdivisions, as provided for in 50-40-201, and state government;

2 (d) trains, buses, and other forms of public transportation;

3 (e) health care facilities;

4 (f) auditoriums, arenas, and assembly facilities;

5 (g) meeting rooms open to the public;

6 (h) bars;

7 (i) community college facilities;

8 (j) facilities of the Montana university system; and

9 (k) public schools, as provided for in 20-1-220 and 50-40-104.

10 ~~(4)~~(5) "Establishment" means an enterprise under one roof that serves the public and for which a single  
11 person, agency, corporation, or legal entity is responsible.

12 ~~(5)~~(6) "Incidental to the service of alcoholic beverages or gambling operations" means that at least 60%  
13 of the business's annual gross income comes from the sale of alcoholic beverages or gambling receipts, or both.

14 ~~(6)~~(7) "Person" means an individual, partnership, corporation, association, political subdivision, or other  
15 entity.

16 ~~(7)~~(8) "Place of work" means an enclosed room where one or more individuals work.

17 ~~(8)~~(9) "Smoking" or "to smoke" includes ~~the act of lighting, smoking, or carrying a lighted cigar, cigarette,~~  
18 ~~pipe, or any smokable product and includes the use~~ inhaling, exhaling, burning, lighting, or carrying any lighted  
19 or heated cigar, cigarette, pipe, or other lighted or heated tobacco or plant product intended for inhalation,  
20 whether natural or synthetic, in any manner or in any form, including the use of marijuana for a debilitating  
21 medical condition as provided for in Title 50, chapter 46, and the use of an electronic smoking device."

22 - END -