

1 SENATE BILL NO. 390

2 INTRODUCED BY W. CURDY, J. ISALY, M. BERTOGLIO, B. GILLESPIE, G. HUNTER, W. MCKAMEY, T.  
3 RUNNING WOLF, D. LOGE, J. WINDY BOY, T. MCGILLVRAY, P. TUSS

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF "SMOKING" IN THE CLEAN  
6 INDOOR AIR ACT; PROVIDING A DEFINITION OF "ELECTRONIC SMOKING DEVICE"; AMENDING  
7 SECTION 50-40-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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11 **Section 1.** Section 50-40-103, MCA, is amended to read:

12 **"50-40-103. Definitions.** As used in this part, the following definitions apply:

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

17 (2) "Department" means the department of public health and human services provided for in 2-15-  
18 2201.

19 (3) "Electronic smoking device" means a product AN E-CIGARETTE, DAB RIG, OR VAPE PEN containing  
20 or delivering nicotine or another substance intended for human consumption that can be used by a person in  
21 any manner for the purpose of inhaling vapor or aerosol from the product. ~~The term includes a device~~  
22 manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, dab rig, or vape pen,  
23 or under any other product name or descriptor.

24 (3)(4) "Enclosed public place" means an indoor area, room, or vehicle that the general public is  
25 allowed to enter or that serves as a place of work, including but not limited to the following:

26 (a) restaurants;

27 (b) stores;

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

1 political 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  
11 single 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  
13 60% of the business's annual gross income comes from the sale of alcoholic beverages or gambling receipts,  
14 or both.

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

17 ~~(7)~~(8) "Place of work" means an enclosed room where one or more individuals work.

18 ~~(8)~~(9) ~~(a)~~ "Smoking" or "to smoke" ~~includes means~~ the act of:

19 (i) ~~lighting, smoking, INHALING, EXHALING, or carrying a lighted cigar, cigarette, pipe, or any~~  
20 ~~smokable product, and includes including the use of marijuana; or AN ELECTRONIC SMOKING DEVICE.~~

21 ~~(ii) inhaling, exhaling, burning, or carrying a lighted or heated cigar, cigarette, pipe, hookah, or any~~  
22 ~~other lighted or heated tobacco or plant product, whether natural or synthetic, intended for inhalation, including~~  
23 ~~marijuana or cannabis, in any manner or any form.~~

24 ~~(b) The term includes the use of an electronic smoking device that creates an aerosol or vapor, in~~  
25 ~~any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the~~  
26 ~~prohibition of smoking in Title 50, chapter 40, part 1."~~

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28 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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