

SENATE BILL NO. 150

INTRODUCED BY W. GALT, D. ZOLNIKOV, B. LER, B. USHER, G. HERTZ, K. BOGNER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO ALCOHOL AND SMOKING; CREATING THE CIGAR BAR ALCOHOLIC BEVERAGE ENDORSEMENT; APPLYING THE ENDORSEMENT TO CERTAIN ALCOHOLIC BEVERAGE LICENSES; PROVIDING REQUIREMENTS RELATING TO THE CIGAR BAR LICENSE ENDORSEMENT; PROVIDING A FEE; EXEMPTING CIGAR BARS FROM CLEAN INDOOR AIR ACT REQUIREMENTS; PROVIDING DEFINITIONS; AND AMENDING SECTIONS 50-40-103 AND 50-40-104, MCA."

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

NEW SECTION. Section 1. Cigar bar -- license endorsement -- requirements. (1) An all-beverages licensee under 16-4-201 may apply to the department for a cigar bar license endorsement. The department shall issue a cigar bar endorsement if the licensee meets the requirements of this section, determined through the department's suitability analysis as provided in 16-3-311. An application for a catering endorsement and an annual fee of \$200 must be submitted to the department for its approval.

(2) A cigar bar endorsement permits the smoking of cigars on the licensed premises, which may constitute an enclosed public place as defined in 50-40-103 but is exempt from the prohibition on smoking in an enclosed public place as provided in 50-40-104.

(3) A cigar bar endorsement may be issued only to an all-beverages licensee who holds a gaming or gambling license under Title 23, chapter 5, part 3, 5, or 6.

(4) An establishment with a cigar bar endorsement:

- (a) may only allow cigars that are purchased on the licensed premises to be smoked;
- (b) must generate 10% or more of its annual gross income, excluding gaming or gambling income, from the sale of cigars;
- (c) must have a humidor as defined in this section;
- (d) may not permit the smoking of any other tobacco, marijuana, or alternative nicotine or vapor

1 products, as defined in 16-11-302, on the licensed premises;

2 (e) must post a notice of the prohibition against smoking products other than cigars;

3 (f) may not knowingly sell to or permit entrance to a person less than 21 years of age; and

4 (g) must be located in a freestanding structure occupied solely by the cigar bar, and smoke from a
5 cigar may not migrate into an enclosed area where smoking is otherwise prohibited. If indoors, the
6 establishment must have a public place that is enclosed by solid walls or windows, a ceiling, and a solid door
7 and be equipped with a ventilation system as defined in this section.

8 (5) A licensee meeting the requirements of this section shall annually report to the department, on
9 a form prescribed by the department, the revenue generated from the sale of cigars as a percentage of annual
10 gross income and any other information considered necessary by the department for renewal of the cigar bar
11 endorsement.

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

13 (a) "Cigar" means a premium tobacco product that:

14 (i) is composed of only tobacco leaves, water, and an insignificant amount of vegetable-based
15 adhesive;

16 (ii) is handmade and is not machine-made;

17 (iii) is wrapped in whole leaf tobacco;

18 (iv) contains a 100% leaf tobacco binder;

19 (v) is capped by hand;

20 (vi) does not have a filter, tip, or nontobacco mouthpiece;

21 (vii) has a characterizing flavor that is added through a natural process, such as mixing different
22 types of tobacco leaves, soaking, or aromatic smoking, and is not flavored through a chemical process or other
23 means; and

24 (viii) weighs at least 2.7 grams a cigar.

25 (b) "Enclosed public place" has the same meaning as provided in 50-40-103.

26 (c) "Humidor" means an enclosure affixed to the location that is large enough for an individual to
27 stand and in which the humidity of the enclosure is controlled.

28 (d) "Ventilation system" means a dedicated system in which exhausted air is not recirculated to

1 nonsmoking areas and smoke is not back streamed into nonsmoking areas.

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

4 **"50-40-103. Definitions.** As used in this part, the following definitions apply:

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

9 (b) The term does not include a cigar bar.

10 (2) "Cigar bar" means an establishment with a license issued pursuant to Title 16, chapter 4, part
11 2, that holds a cigar bar endorsement under [section 1] that permits the smoking of cigars in an enclosed public
12 place.

13 (2)(3) "Department" means the department of public health and human services provided for in 2-15-
14 2201.

15 (3)(4) "Enclosed public place" means an indoor area, room, or vehicle that the general public is
16 allowed to enter or that serves as a place of work, including but not limited to the following:

17 (a) restaurants;

18 (b) stores;

19 (c) public and private office buildings and offices, including all office buildings and offices of
20 political subdivisions, as provided for in 50-40-201, and state government;

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

22 (e) health care facilities;

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

24 (g) meeting rooms open to the public;

25 (h) bars, but not including cigar bars as defined in subsection (2) of this section that meet the
26 requirements of [section 1];

27 (i) community college facilities;

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

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

2 (4)(5) "Establishment" means an enterprise under one roof that serves the public and for which a
3 single person, agency, corporation, or legal entity is responsible.

4 (5)(6) "Incidental to the service of alcoholic beverages or gambling operations" means that at least
5 60% of the business's annual gross income comes from the sale of alcoholic beverages or gambling receipts,
6 or both.

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

9 (7)(8) "Place of work" means an enclosed room where one or more individuals work.

10 (8)(9) "Smoking" or "to smoke" includes the act of lighting, smoking, or carrying a lighted cigar,
11 cigarette, pipe, or any smokable product and includes the use of marijuana."
12

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

14 **"50-40-104. Smoking in enclosed public places prohibited -- notice to public -- places where**
15 **prohibition inapplicable.** (1) Except as otherwise provided in this section, smoking in an enclosed public place
16 is prohibited.

17 (2) The proprietor or manager of an establishment containing enclosed public places shall post a
18 sign in a conspicuous place at all public entrances to the establishment stating, in a manner that can be easily
19 read and understood, that smoking in the enclosed public place is prohibited.

20 (3) The proprietor or manager of an intrastate bus that is not chartered shall prohibit smoking in all
21 parts of the bus.

22 (4) The prohibition in subsection (1) does not apply to the following places, whether or not the
23 public is allowed access to those places:

24 (a) a private residence unless it is used for any of the following purposes, in which case the
25 prohibition in subsection (1) applies:

26 (i) a family day-care home or group day-care home, as defined in 52-2-703 and licensed pursuant
27 to Title 52, chapter 2, part 7;

28 (ii) an adult foster care home, as defined in 50-5-101 and licensed pursuant to Title 50, chapter 5;

1 or

2 (iii) a health care facility, as defined in 50-5-101 and licensed pursuant to Title 50, chapter 5;

3 (b) a private motor vehicle;

4 (c) school property in which smoking is allowed pursuant to the exception in 20-1-220;

5 (d) a hotel or motel room designated as a smoking room and rented to a guest; however, not more
6 than 35% of the rooms available to rent to guests may be designated as smoking rooms; ~~and~~

7 (e) a site that is being used in connection with the practice of cultural activities by American
8 Indians that is in accordance with the American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a; and

9 (f) a cigar bar as defined in 50-40-103 that meets the requirements of [section 1]."

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