



# American Cancer Society v. State of Montana, 103 P.3d 1085 (Mont. 2004)

Topics Covered: Anti-tobacco

**Outcome: Favorable**

## **Issue**

The issue in this case was whether a Montana law barring municipal smoking prohibitions in business establishments with permits for video gambling machines was valid under the Montana Constitution.

## **AMA Interest**

The AMA, in keeping with its objective of protecting public health, supports a smoke-free America.

## **Case Summary**

Several not for profit organizations, including the Montana Medical Association, asked the Montana Supreme Court to declare the state law unconstitutional under provisions of the Montana Constitution stating that all persons have the inalienable right to "a clean and healthful environment" and that the state is to maintain and improve the environment. The suit also challenged the law under the "single subject" and "local government sovereignty" provisions of the Montana Constitution.

The Montana Supreme Court, in a split decision, held that the state law did not violate the local government sovereignty provision of the Montana Constitution. The court declined to address the other constitutional arguments. Although it held the statute constitutional, the court also found that, because of the way it was worded, the law had "no force or effect." Thus, the case ended up in a victory for the anti-smoking coalition that had brought the suit.

## **Litigation Center Involvement**

The Litigation Center filed amicus curiae brief to oppose the state law prohibiting local anti-smoking ordinances.

Montana Supreme Court brief