

HOUSE BILL 394

Introduced by Nisbet, et al.

1/25	Introduced
1/25	Referred to Taxation
1/25	First Reading
2/01	Hearing
3/27	Tabled in Committee

House BILL NO. 394

INTRODUCED BY

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A LOCAL GOVERNMENT TO IMPOSE A LOCAL OPTION TAX UNDER THE LODGING FACILITY USE TAX; REQUIRING AN ELECTION BEFORE THE TAX MAY BE IMPOSED; PROVIDING FOR THE DISTRIBUTION OF THE TAX PROCEEDS; DEFINING "TOURISM-RELATED FACILITY"; PROVIDING FOR A STATUTORY APPROPRIATION; AMENDING SECTIONS 15-65-101, 15-65-111, 15-65-121, 15-65-131, AND 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 15-65-101, MCA, is amended to read:

"15-65-101. Definitions. For purposes of this part, the following definitions apply:

(1) "Accommodation charge" means the fee charged by the owner or operator of a facility for use of the facility for lodging, including bath house facilities, but excluding charges for meals, transportation, entertainment, or any other similar charges.

(2) "Council" means the tourism advisory council established in 2-15-1816.

(3) "Facility" means a building containing individual sleeping rooms or suites, providing overnight lodging

facilities for periods of less than 30 days to the general public for compensation. The term includes a facility represented to the public as a hotel, motel, campground, resort, dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, or bed and breakfast facility. The term does not include any health care facility, as defined in 50-5-101, any facility owned by a corporation organized under Title 35, chapter 2 or 3, that is used primarily by persons under the age of 18 years for camping purposes, any hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose average daily accommodation charge for single occupancy does not exceed 60% of the amount authorized under 2-18-501 for the actual cost of lodging for travel within the state of Montana, or any other facility that is rented solely on a monthly basis or for a period of 30 days or more.

(4) "Nonprofit convention and visitors bureau" means a nonprofit corporation organized under Montana law and recognized by a majority of the governing body in the city or consolidated city-county in which the bureau is located.

(5) "Regional nonprofit tourism corporation" means a nonprofit corporation organized under Montana law and recognized by the council as the entity for promoting tourism within one of several regions established by executive order of the governor.

1 (6) "Campground" means a place, publicly or privately
2 owned, used for public camping where persons may camp,
3 secure tents, or park individual recreational vehicles for
4 camping and sleeping purposes. The term does not include
5 that portion of a trailer court, trailer park, or mobile
6 home park intended for occupancy by trailers or mobile homes
7 for resident dwelling purposes for periods of 30 consecutive
8 days or more.

9 (7) "Tourism-related facility" means a facility that
10 promotes the history, culture, scenic attractions, natural
11 resources, or recreational opportunities of an area. The
12 term includes a multi-purpose facility built and maintained
13 by a local government for the purpose of providing
14 entertainment or recreational opportunities. The term does
15 not include a bar or restaurant, as defined in 39-3-603, a
16 campground, or any private business that offers goods or
17 services for sale to the general public."

18 **Section 2.** Section 15-65-111, MCA, is amended to read:

19 "15-65-111. Tax rate -- local option lodging facility
20 use tax. (1) There is imposed on the user of a facility a
21 tax at a rate equal to 4% of the accommodation charge
22 collected by the facility.

23 (2) (a) Subject to the provisions of [sections 3 and
24 4], a local government may impose on the user of a facility
25 within its jurisdiction a local option lodging facility use

1 tax at a rate of up to 2% of the accommodation charge
2 collected by the facility.

3 (b) A local option lodging facility use tax is
4 collected and reported at the same time and in the same
5 manner as provided under 15-65-112.

6 ~~†2~~(3) Accommodation charges do not include charges for
7 rooms used for purposes other than lodging."

8 **NEW SECTION. Section 3.** Local option lodging facility
9 **use tax -- election required -- procedure.** (1) A local
10 government may not impose, amend, or repeal a local option
11 lodging facility use tax unless the question has been
12 submitted to the electorate and approved by a majority of
13 the electors voting on the question.

14 (2) The local option lodging facility use tax question
15 may be presented to the electors by:

16 (a) a petition of the electors as provided in 7-1-4130,
17 7-5-132, and 7-5-134 through 7-5-137; or

18 (b) a resolution of the local governing body.

19 (3) The petition or resolution referring the taxing
20 question must:

21 (a) state the exact rate of the local option lodging
22 facility use tax;

23 (b) state the duration of the local option lodging
24 facility use tax;

25 (c) state the date when the local option lodging

1 **"15-65-131. State agencies to account for in-state**
 2 **lodging expenditures.** Each state agency shall account for
 3 in-state lodging expenditures in a manner that will enable
 4 the department of revenue to determine total expenditures
 5 for in-state lodging by state agencies in order to make an
 6 allocation of a portion of the tax proceeds imposed by
 7 15-65-111(1) to the general fund as provided in 15-65-121."

8 **Section 7.** Section 17-7-502, MCA, is amended to read:

9 **"17-7-502. Statutory appropriations -- definition --**
 10 **requisites for validity.** (1) A statutory appropriation is an
 11 appropriation made by permanent law that authorizes spending
 12 by a state agency without the need for a biennial
 13 legislative appropriation or budget amendment.

14 (2) Except as provided in subsection (4), to be
 15 effective, a statutory appropriation must comply with both
 16 of the following provisions:

17 (a) The law containing the statutory authority must be
 18 listed in subsection (3).

19 (b) The law or portion of the law making a statutory
 20 appropriation must specifically state that a statutory
 21 appropriation is made as provided in this section.

22 (3) The following laws are the only laws containing
 23 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
 24 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;
 25 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;

1 [section 4]; 15-70-101; 16-1-404; 16-1-410; 16-1-411;
 2 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702;
 3 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512;
 4 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-6-406;
 5 20-8-111; 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612;
 6 23-5-1016; 23-5-1027; 27-12-206; 37-51-501; 39-71-2504;
 7 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205;
 8 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103;
 9 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613;
 10 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws
 11 of 1985.

12 (4) There is a statutory appropriation to pay the
 13 principal, interest, premiums, and costs of issuing, paying,
 14 and securing all bonds, notes, or other obligations, as due,
 15 that have been authorized and issued pursuant to the laws of
 16 Montana. Agencies that have entered into agreements
 17 authorized by the laws of Montana to pay the state
 18 treasurer, for deposit in accordance with 17-2-101 through
 19 17-2-107, as determined by the state treasurer, an amount
 20 sufficient to pay the principal and interest as due on the
 21 bonds or notes have statutory appropriation authority for
 22 such payments. (In subsection (3), pursuant to sec. 10, Ch.
 23 664, L. 1987, the inclusion of 39-71-2504 terminates June
 24 30, 1991.)"

25 NEW SECTION. **Section 8.** Codification instruction.

LC 0673/01

1 [Sections 3 and 4] are intended to be codified as an
2 integral part of Title 15, chapter 65, part 1, and the
3 provisions of Title 15, chapter 65, part 1, apply to
4 [sections 3 and 4].

5 NEW SECTION. **Section 9.** Effective date. [This act] is
6 effective July 1, 1991.

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