

HOUSE BILL 532

Introduced by Southworth, et al.

1/31	Introduced
1/31	Referred to Taxation
2/01	Fiscal Note Requested
2/01	First Reading
2/07	Fiscal Note Received
2/08	Fiscal Note Printed
2/13	Hearing
3/19	Tabled in Committee

HOUSE BILL NO. *532*

INTRODUCED BY *Sen. Chapman*

Assembly *Members* *Manahan* *Yellowtail*
BILL FOR AN ACT ENTITLED: "AN ACT TO IMPOSE A TAX ON THE SHORT-TERM RENTAL OR LEASE OF A VEHICLE; TO ESTABLISH THE RATE OF TAX AT 4 PERCENT; TO PROVIDE PENALTIES FOR FAILURE TO PAY THE TAX; TO REQUIRE THAT RECEIPTS FROM THE TAX AND FROM PENALTIES AND INTEREST BE DEPOSITED IN THE STATE GENERAL FUND; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 2] requires the department of revenue to adopt rules to implement the tax imposed on the rental of vehicles. It is the intent of the legislature that the rules promulgated by the department of revenue should address, at a minimum, the following:

- (1) forms and procedures for registering with the department as a vehicle rental agent;
- (2) forms and procedures for filing the tax imposed by [section 3]; and
- (3) such other matters as the department considers necessary for the effective and efficient implementation and enforcement of [sections 1 through 7].



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

NEW SECTION. **Section 1.** Definitions. As used in

[sections 1 through 7], the following definitions apply:

(1) "Charge" means the fee imposed by a vehicle rental agent for the use of a vehicle owned by or otherwise under the control of the vehicle rental agent. A charge does not include a fee, premium, or excise imposed for:

- (a) a rental or lease agreement extending for a period of longer than 1 month; or
- (b) insurance purchased at the time of the lease or rental of a vehicle.

(2) "Department" means the department of revenue established in 2-15-1301.

(3) "Vehicle" means an automobile or a truck having a rated capacity of three-quarters of a ton or less.

(4) "Vehicle rental agent" means a person who, by lease, rental, or other arrangement, provides a vehicle to another person for a charge.

NEW SECTION. **Section 2.** Rulemaking authority. The

department shall adopt rules necessary to implement and administer [sections 1 through 7].

NEW SECTION. **Section 3.** Tax rate. There is imposed on

the user of a vehicle provided by a vehicle rental agent a tax at a rate equal to 4% of the charge collected by the

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1 vehicle rental agent.

2 NEW SECTION. Section 4. Collection and reporting --

3 disposition of receipts. (1) The vehicle rental agent shall
4 collect the tax imposed by [section 3].

5 (2) A vehicle rental agent shall report to the
6 department, at the end of each calendar quarter, the gross
7 receipts collected during that quarter that are attributable
8 to charges. The report is due within 30 days following the
9 end of the calendar quarter and must be accompanied by a
10 payment in an amount equal to the tax required to be
11 collected under subsection (1).

12 (3) All receipts collected under this section by the
13 department must be deposited in the state general fund.

14 NEW SECTION. Section 5. Audits -- records. (1) The

15 department may audit the books and records of any vehicle
16 rental agent to ensure that the proper amount of tax imposed
17 by [section 3] has been collected. An audit may be done on
18 the premises of the vehicle rental agent or at any other
19 convenient location.

20 (2) The department may request that the vehicle rental
21 agent provide the department with books, ledgers, registers,
22 or other documents necessary to verify the correct amount of
23 tax.

24 (3) A vehicle rental agent shall maintain and have
25 available for inspection by the department books, ledgers,

1 registers, or other documents showing the collection of
2 charges for the preceding 5 years.

3 (4) Except in the case of a vehicle rental agent who,
4 with intent to evade the tax, purposely or knowingly files a
5 false or fraudulent return violating the provisions of
6 [sections 1 through 7], the amount of tax due under any
7 return must be determined by the department within 5 years
8 after the return is made and after 5 years the department is
9 barred from revising a return or recomputing the tax due. A
10 proceeding in court for the collection of the tax may not be
11 instituted unless notice of additional tax is provided
12 within the 5-year period.

13 (5) An application for revision may be filed with the
14 department by a vehicle rental agent within 5 years from the
15 original due date of the return.

16 (6) All penalties and interest imposed and collected
17 under this section by the department must be deposited in
18 the state general fund.

19 NEW SECTION. Section 6. Registration number --

20 application to department. (1) A vehicle rental agent shall
21 apply to the department for a registration number.

22 (2) The application must be made on a form provided by
23 the department.

24 (3) Upon receipt of the completed application, the
25 department shall assign a registration number to the vehicle

1 rental agent.

2 NEW SECTION. Section 7. Failure to pay or file --
3 penalty -- interest. (1) A vehicle rental agent who fails to
4 file the report as required by [section 4] must be assessed
5 a penalty of 2% of the tax that should have been collected
6 during the calendar quarter. Upon a showing of good cause,
7 the department may waive the penalty.

8 (2) A vehicle rental agent who fails to make payment or
9 fails to report and make payment as required by [section 4]
10 must be assessed a penalty of 2% of the amount that was not
11 paid. Upon a showing of good cause, the department may waive
12 the penalty.

13 (3) If a vehicle rental agent fails to file the report
14 required by [section 4] or if the department determines that
15 the report understates the amount of tax due, the department
16 may determine the amount of the tax due and assess that
17 amount against the vehicle rental agent.

18 (4) The amount required to be paid under [section 4]
19 accrues interest at the rate of 1% a month or part of a
20 month from delinquency until paid.

21 NEW SECTION. Section 8. Codification instruction.
22 [Sections 1 through 7] are intended to be codified as an
23 integral part of Title 15, and the provisions of Title 15
24 apply to [sections 1 through 7].

25 NEW SECTION. Section 9. Effective date --

1 applicability. [This act] is effective on passage and
2 approval and applies to all charges collected on or after
3 July 1, 1991, regardless of when the charges were invoiced
4 by or due to a vehicle rental agent.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0532, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to impose a tax on the short-term rental or lease of a vehicle, to establish the rate of tax at 4 percent, to provide penalties for failure to pay the tax, and to require that receipts from the tax and from penalties and interest be deposited in the state general fund.

ASSUMPTIONS:

1. The proposed legislation excludes insurance receipts from this vehicle rental tax. Insurance receipts are assumed to be minimal.
2. The proposed legislation allows for the taxation of rental charges assessed by private individuals. The amount of these charges is assumed to be minimal.
3. The proposed legislation taxes receipts from renting trucks with a rated capacity of 3/4 ton or less in addition to automobiles (cars). The rental of these light trucks is assumed to be through regular car rental establishments or through automobile dealers, rather than through specialized truck rental establishments.
4. Gross receipts from car rental establishments in Montana for Calendar Year (CY) 1987 was approximately \$13,500,000 (estimated from the 1987 Census of Service Industries, U.S. Bureau of the Census).
5. The average annual growth rate for vehicle rental gross receipts between 1977 and 1987 was about 9% per year.
6. Car rental gross receipts between 1987 and 1993 increased or will increase at a rate of 9% per year, yielding CY 1991, 1992 and 1993 estimates of \$18,360,000, \$19,575,000, and \$20,790,000 respectively.
7. There are about 45 new and used car dealers in Montana that rent vehicles (Montana Business Directory, American Directory Publishing Company). Assuming that this incidental activity generates \$50,000 in receipts on the average for these 45 car dealers, then total annual receipts would be \$2,250,000. This level of gross rental receipts is assumed to remain constant through CY 1993.
8. Since the proposed tax applies to receipts received on or after July 1, 1991, and since quarterly submission of tax collections would be within 30 days following the end of a quarter, then the last two quarter receipts for CY 1991 and the first quarter CY 1992 would be received in FY 1992 and the remaining three quarters of tax receipts for CY 1992 plus the first quarter for CY 1993 would be received in FY93.
9. The proposed legislation specifies a 4% tax rate on vehicle rental fees.
10. No penalties and interest are collected in FY92 and FY93.
11. Per the proposed legislation, all tax receipts would be deposited in the state general fund.
12. In FY92, 0.45 FTE staff would be required during the development stage; for FY93 and beyond, 0.25 FTE.

FISCAL IMPACT:

see next page


ROD SUNDSTED, BUDGET DIRECTOR 2-7-91
Office of Budget and Program Planning DATE


JIM SOUTHWORTH, PRIMARY SPONSOR 2/8/91
DATE

Fiscal Note for HB0532, as introduced

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FISCAL IMPACT:

Expenditures:

	FY '92			FY '93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
F.T.E.	0	0.45	0.45	0	0.25	0.25
Personal Services	0	23,427	23,427	0	3,898	3,898
Operating Expenses	0	2,185	2,185	0	1,155	1,155
Equipment	0	4,430	4,430	0	0	0
Total	0	30,042	30,042	0	5,053	5,053
<u>Funding:</u>						
General Fund	0	30,042	30,042	0	5,053	5,053

Revenues:

Vehicle Rental Tax (General Fund)	0	630,450	630,450	0	885,150	885,150
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LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

On-going costs after FY93 would be approximately \$5,000.

TECHNICAL NOTE:

In order to be consistent with other Department of Revenue due dates, line 8 of page 3 after the word due should be amended to read "on or before the last day of the month following the close of the quarter".