

MINUTES OF THE HUMAN SERVICES COMMITTEE
April 10, 1981

The Human Services Committee Convened at 12:10 p.m., on April 10, 1981, in Room 103 of the Capitol with CHAIRMAN BUDD GOULD presiding. All members were present except REPRESENTATIVES BARDANOUE, BENNETT and BRAND.

EXECUTIVE SESSION.

SB431.

REP. SIVERTSEN, Chairman of the Subcommittee appointed to study SB 431, reviewed amendments recommended by the subcommittee. (EXHIBIT I) He said that the printed matter (EXHIBIT II) distributed by RUSS JOSEPHSON, Legal Counsel to the Committee clarified the amendments.

REP. GOULD said there originally was a "cap" of \$20,000 for business, which was put to "protect" large grocery stores. He asked if this (Cap) had been removed by amendment. REP. SIVERTSEN answered that it had.

RUSS JOSEPHSON read minor amendments to the committee on:

- page 1 of the Statement of Intent
- page 3 of the bill
- page 7, line 4 - the adding of 3 words
- page 13, line 5 (rules)

REP. SIVERTSEN asked if certain language on page 12 should be removed and RUSS JOSEPHSON said it could remain, to avoid renumbering and the possibility of an error. But, he did agree that it was redundant.

REP. SIVERTSEN MOVED THAT SB 431 BE CONCURRED IN.

REP. SILVERTSEN MOVED THAT THE AMENDMENTS BE ACCEPTED BY THE COMMITTEE. The motion was SECONDED and PASSED UNANIMOUSLY.

REP. SIVERTSEN MOVED that THE STATEMENT OF INTENT BE ACCEPTED, and that SB431 BE CONCURRED IN AS AMENDED. The motion was seconded and PASSED UNANIMOUSLY.

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REP. SIVERTSEN thanked REPRESENTATIVES PAVLOVICH and SWITZER and RUSS JOSEPHSON for their work on the subcommittee.

CHAIRMAN GOULD asked for the help of committee members when the bill is heard in the House. He commented that appointing a "good" advisory council would be most important to the success of enforcing this law.

CHAIRMAN GOULD stated that he would CARRY THE BILL.

The meeting adjourned at 12:30 p.m.



CHAIRMAN BUDD GOULD

rj

1 STATEMENT OF INTENT

2 SENATE BILL 431

3 Senate Public Health, Welfare and Safety Committee

4
5 A statement of intent is required for this bill because
6 it delegates rulemaking authority to the Department of
7 Health in order to provide programs for litter control and
8 resource recycling.

9 The intent of Senate Bill 431 is to accomplish the
10 following goals:

11 (1) to make one agency responsible for litter
12 collection and control and to expend funds for this purpose;

13 (2) to utilize litter patrols and educational programs
14 to encourage control of litter;

15 (3) to fund required studies of litter and recycling;

16 (4) to provide grants to develop and produce
17 educational programs concerning litter and recycling;

18 (5) to develop and produce information about this act
19 and programs developed under it;

20 (6) to develop and implement pilot programs for litter
21 and recyclable materials collection; and

22 (7) to provide technical and informational assistance
23 to recycling centers.

24 The ADVISORY Council PROVIDED FOR IN [SECTION 4] will
25 also review the progress of all programs developed by the

1 administering agency and those funded with grants.

2 Rules to be promulgated and adopted under this act
3 include, but are not limited to:

4 (1) standards for contracts with other persons for:

5 (a) the development of educational and informational
6 programs and materials; and

7 (b) studies required by the act.

8 (2) requirements for grant applicants; standards for
9 the evaluation of proposals; the maximum dollar amount
10 allowable for a single grant; and other conditions necessary
11 to provide for a variety of programs.

12 ~~First-adopted-by-the-Senate-Public-Health-Welfare--and~~
13 ~~Safety-Committee-on-the-23rd-day-of-March-1981.~~

14 SECTION 13 AS AMENDED AUTHORIZES THE DEPARTMENT OF
15 REVENUE TO ADOPT RULES FOR THE COLLECTION OF THE LITTER
16 ASSESSMENT. RULES WITHIN LEGISLATIVE CONTEMPLATION AT THIS
17 TIME WOULD INCLUDE AN INTERPRETATION CLARIFYING THAT
18 OPERATIONS IN INTERSTATE COMMERCE WHICH CONGRESS HAS
19 EXEMPTED FROM STATE TAXATION WOULD NOT BE TAXED, AND
20 CLARIFYING HOW THE PERCENTAGE OF TOTAL GROSS SALES WHICH IS
21 SALES OF LITTER STREAM PRODUCTS SHALL BE CALCULATED. ANY
22 OTHER TERMS OR FORMULAE EMPLOYED IN SECTION 13 ALSO ARE
23 SUBJECT TO FURTHER DEFINITION BY DEPARTMENTAL RULES.

1 SENATE BILL NO. 431

2 INTRODUCED BY HAGER, GOULD, EUDAILY, RYAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CONTROL LITTER IN
5 MONTANA AND PROVIDE FOR THE RECYCLING OF CERTAIN MATERIALS
6 AND PRODUCTS; ~~AMENDING--SECTION--15-30-111--MCA;~~ REPEALING
7 SECTION 61-8-365, MCA; AND PROVIDING AN EFFECTIVE ~~DATES~~
8 DATE."

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

11 Refer to Introduced Bill

12 (Strike everything after the enacting clause and insert:)

13 Section 1. Short title. [This act] may be cited as the
14 "Resource Recycling Act of 1981".

15 Section 2. Purpose. (1) It is the intent of the
16 legislature to encourage the recycling of materials and
17 products used in this state in order to conserve resources
18 and energy and maintain the natural environment of the state
19 as nearly litter free as possible and to encourage litter
20 control and recycling.

21 (2) It is the belief of the legislature that official
22 encouragement of private and public recovery of materials
23 results in the recovery and reuse of major quantities of
24 basic materials and a significant savings of energy.

25 (3) It is the belief of the legislature that a

1 litter-free environment is possible through enactment of a
2 strong and well-balanced program of litter prevention and
3 public education, because it is people who litter, not the
4 materials and products that become litter.

5 (4) The legislature acknowledges that the people of
6 this state have expressed a desire for a comprehensive
7 litter and recycling act administered by a single agency
8 that will address all types of litter and enhance
9 multiproduct recycling.

10 Section 3. Definitions. In [this act], unless the
11 context requires otherwise, the following definitions apply:

12 (1) "Account" means the resource recycling account
13 provided for in [section 9].

14 (2) "Department" means the department of health and
15 environmental sciences provided for in Title 2, chapter 15,
16 part 21.

17 (3) "Highways" means those roadways designated by law
18 as primary or secondary highways of the state.

19 (4) "Litter" means all improperly discarded and
20 uncontrolled waste material thrown or deposited on land or
21 water.

22 (5) "Person" means any individual, partnership,
23 business, corporation, organization, subdivision of the
24 state or local government, or other legal entity of any
25 kind.

1 (6) "Recycling" means the process of collecting,
2 sorting, treating, and reusing a waste material.

3 (7) "Reuse" means the process of returning a commodity
4 to the economic stream for reuse as a commodity.

5 Section 4. Advisory council. (1) There is an advisory
6 council to the department that consists of seven members
7 appointed by the governor as follows:

8 (a) a representative of either the retail or wholesale
9 food industry;

10 (b) a representative of the recycling industry;

11 (c) a representative of an established environmental
12 organization; and

13 (d) four other members.

14 (2) Members appointed to the council must be aware of
15 and concerned with achieving the goals of [this act].

16 (3) Members serve at the pleasure of the governor.

17 (4) Members of the council shall serve without
18 compensation but are entitled to per diem and travel
19 expenses, as provided for in 2-18-501 through 2-18-503, for
20 each day in attendance at council meetings.

21 Section 5. Meetings -- duties. (1) The council shall
22 meet at least four times a year.

23 (2) The council shall:

24 (a) advise the department concerning litter reduction
25 and increased IMPROVED recycling methods;

1 (b) encourage participation by industry, labor,
2 municipalities, organizations, and the public in programs
3 established pursuant to [this act];

4 (c) evaluate reports and programs of the department
5 established pursuant to [this act]; and here is an overview

6 (d) following at least one public hearing, report to
7 the 48th Montana legislature concerning:

8 (i) an evaluation of department programs established
9 pursuant to [this act];

10 (ii) legislation to further programs judged successful
11 by the council, if needed; and

12 (iii) termination of programs judged unsuccessful by
13 the council.

14 Section 6. Duties of the department. (1) The
15 department shall:

16 (a) serve as the coordinating agency between agencies
17 of government and private persons involved in litter
18 reduction, control, and collection and in recycling
19 activities; provided for 1992-10-20

20 (b) encourage, organize, and coordinate voluntary
21 local campaigns or campaigns developed by local persons
22 seeking to focus public attention on programs to control
23 litter and increase recycling;

24 (c) engage in educational programs to foster and
25 sustain public awareness of litter;

1 (d) identify and adopt public relations and education
2 programs;

3 (e) study, for the purpose of reporting to the
4 advisory council no later than August 1, 1982:

5 (i) the status of recycling and reuse, including the
6 respective percentage of total waste comprised, the rates of
7 recycling and reuse, and the barriers to increased recycling
8 and reuse for each of the following materials and products:

9 (A) aluminum and aluminum products;

10 (B) other nonferrous metals and nonferrous metal
11 products;

12 (C) ferrous metal and ferrous metal products;

13 (D) glass and glass products;

14 (E) paper, including office paper, newspaper, computer
15 cards and paper, corrugated paper, low-grade paper, and
16 other paper products;

17 (F) plastic and plastic products;

18 (G) organic materials, including food and yard wastes;

19 (H) waste oil;

20 (I) wood and wood products; and

21 (J) textiles;

22 (ii) the strength of the secondary materials market for
23 each of the materials listed in subsection (1)(e)(i),
24 categorized as follows:

25 (A) stable market, with no additional incentives

1 needed;

2 (B) weak market, with some additional incentives
3 needed;

4 (C) potential market, with some additional incentives
5 needed; or

6 (D) no foreseeable market; as follows:

7 (iii) recommended legal or legislative action, if any,
8 that the state of Montana can take to revise existing
9 freight rates by the federal interstate commerce commission
10 that discriminate against transportation of recycled
11 materials; and

12 (f) adopt rules under the Montana Administrative
13 Procedure Act necessary to implement the provisions of [this
14 act].

15 (2) The department may:

16 (a) contract with any person for the pickup and
17 removal of litter from public places;

18 (b) contract with any person for educational programs
19 designed to create public awareness of litter problems,
20 recycling, and compliance with the provisions of [this act];
21 and

22 (c) expend money from the account established in
23 [section 9 8].

24 Section 7. Surveys -- annual reports. (1) Within 12
25 months of July 1, 1981, the department shall conduct or

1 contract with a public agency or private entity to conduct a
2 survey measuring the amount, by item count, volume, and
3 weight, and composition of litter in selected areas of the
4 state. The areas to be surveyed shall be chosen TO BE
5 consistent with the necessity of measurement of progress and
6 the need for annual, consistent identification of littering
7 rates. The specific areas surveyed must be representative of
8 the geographic areas and land uses in the state.

9 (2) The department shall conduct annual surveys
10 designed for comparison with earlier surveys and report to
11 the governor and the legislature the status and progress
12 achieved by the programs established in [this act].

13 Section 8. Resource recycling account -- creation --
14 expenditures. (1) There is a resource recycling account
15 within the earmarked revenue fund created in 17-2-102. The
16 state treasurer shall draw warrants from this account upon
17 order of the department.

18 (2) The department may order warrants drawn from the
19 account to:

20 (a) produce and distribute educational and
21 informational materials concerning litter and recycling
22 programs; and

23 (b) conduct surveys required by [section 7]; AND

24 (C) PERFORM OTHER DUTIES MANDATED BY [THIS ACT].

25 Section 9. Grants. The department may make grants to

1 persons for the establishment and operation of programs
2 authorized in [this act]. The time period for a grant may
3 not exceed 18 months. A program qualifying for a grant shall
4 be for one or more of the following:

5 (1) preparation and distribution to schools and the
6 public of instructional materials for courses on litter
7 abatement and recycling;

8 (2) development of public information on litter
9 abatement and recycling, including radio and television
10 public service announcements, newspaper ads, posters,
11 leaflets, and audio-visual aids;

12 (3) organization and operation of litter abatement and
13 removal activities conducted by private organizations and
14 service groups;

15 (4) assistance to recycling centers, including
16 information and consultation on available technology,
17 operating procedures, markets for materials, transportation,
18 and publicity techniques through the organization of
19 seminars and workshops with experts in the field; and

20 (5) the creation and expansion of litter law
21 enforcement programs.

22 Section 10. Grants -- rules. The department shall
23 adopt rules under the Montana Administrative Procedure Act
24 that establish:

25 (1) eligibility requirements for grant applicants;

1 (2) standards for the evaluation of proposals
2 submitted by applicants for grants;

3 (3) the maximum dollar amount allowable for a single
4 grant; and

5 (4) other conditions necessary to provide for a
6 variety of programs.

7 Section 11. Littering prohibited -- penalty. (1) Any
8 person who deposits, throws, discards, or otherwise disposes
9 of any litter on any public or private property or in any
10 waters commits the offense of littering unless:

11 (a) such property is an area designated by law for
12 disposal of the material and the person is authorized by the
13 proper public authority to so use the property; or

14 (b) the litter is placed in a receptacle or container
15 installed for that purpose.

16 (2) This section may not be ~~contrued~~ CONSTRUED to
17 restrict a private owner in the use of his own property if
18 the placing, depositing, or dumping of waste matter by the
19 owner on the property is controlled and does not create a
20 public nuisance or a hazard to public health or safety.

21 (3) A person convicted of a violation of this section
22 shall be punished by a fine of not less than \$10 or more
23 than \$50. In addition to the fine, the court may order the
24 person to gather and dispose of litter in an area for a
25 length of time determined by the court.

1 Section 12. Department to coordinate litter
2 collection. (1) The department shall coordinate litter
3 collection by state agencies.

4 (2) An agency of state government shall remove litter
5 from litter receptacles placed by the agency.

6 (3) All litter must be collected and disposed of in a
7 manner acceptable to the department.

8 Section 13. Litter assessment. (1) ~~A person engaged in~~
9 ~~the setting at wholesale of any of the items specified in~~
10 ~~subsection (6) shall remit to the state treasurer with his~~
11 ~~annual corporation or individual income tax return an~~
12 ~~additional litter tax equal to 0.15% of gross sales proceeds~~
13 ~~of such items.~~

14 ~~(2) A person engaged in the setting at retail of any~~
15 ~~of the items specified in subsection (6) shall remit to the~~
16 ~~state treasurer with his annual corporation or individual~~
17 ~~income tax return an additional litter tax equal to 0.15% of~~
18 ~~gross sales proceeds of such items.~~

19 ~~(3) For persons engaged in the setting at wholesale~~
20 ~~and retail of any of the items specified in subsection (6),~~
21 ~~the litter tax shall be based on the gross sales proceeds of~~
22 ~~the specified items at either the wholesale or retail level,~~
23 ~~whichever is higher.~~ ALL INDIVIDUALS, PARTNERSHIPS, ESTATES,
24 TRUSTS, OR CORPORATIONS WHO SELL EITHER AT WHOLESALE OR AT
25 RETAIL ANY OF THE ITEMS LISTED IN SUBSECTION (4) MUST FILE A

1 RETURN WITH THE DEPARTMENT OF REVENUE ON OR BEFORE THE 15TH
2 DAY OF THE FIFTH MONTH FOLLOWING THE CLOSE OF ITS FISCAL
3 YEAR, IF THE ITEMS OF SUBSECTION (4) CONSTITUTE AT LEAST 65%
4 OF TOTAL GROSS SALES PROCEEDS. THE RETURN MUST LIST THE
5 GROSS PROCEEDS OF ALL SALES MADE AND THE GROSS PROCEEDS
6 ATTRIBUTABLE TO THE SALE OF ITEMS LISTED IN SUBSECTION (4),
7 AND WHATEVER ADDITIONAL INFORMATION THE DEPARTMENT OF
8 REVENUE MAY CHOOSE TO REQUIRE. A LITTER ASSESSMENT EQUAL TO
9 .015% OF THE GROSS PROCEEDS FROM ALL SALES MUST BE REMITTED
10 WITH THE RETURN. THE PENALTY FOR FAILURE TO FILE THE RETURN
11 AND PAY THE LITTER ASSESSMENT BY ITS DUE DATE IS 100% OF THE
12 LITTER ASSESSMENT DUE OR \$100, WHICHEVER IS LESS. IN
13 ADDITION TO THE PENALTY, INTEREST AT AN ANNUAL RATE OF 10%
14 SHALL ACCRUE ON THE UNPAID LITTER ASSESSMENT. ALL REVENUE
15 FROM THE LITTER ASSESSMENT AND ALL PENALTIES AND INTEREST
16 COLLECTED FOR FAILURE TO PAY THE LITTER ASSESSMENT SHALL BE
17 DEPOSITED IN THE RESOURCE RECYCLING ACCOUNT OF THE EARMARKED
18 REVENUE FUND.

19 ~~{4}--The department of revenue shall remit to the state~~
20 ~~treasurer by April 15 of each year the litter tax based upon~~
21 ~~the gross retail sales proceeds of liquor and wine from~~
22 ~~state stores as provided in subsection {2}.~~

23 (2) ON APRIL 15 OF EACH YEAR, BEGINNING IN 1982, THE
24 DEPARTMENT OF REVENUE SHALL DEPOSIT .015% OF THE PROCEEDS,
25 NET OF LIQUOR LICENSE TAX AND LIQUOR EXCISE TAX, FROM THE

SALE OF LIQUOR AND WINE IN STATE LIQUOR STORES DURING THE
IMMEDIATELY PRECEDING CALENDAR YEAR IN THE RESOURCE
RECYCLING ACCOUNT OF THE EARMARKED REVENUE FUND.

~~(5)~~(3) The state treasurer shall deposit the money received under this section in the earmarked revenue fund to the credit of the resource recycling account.

~~(6)~~(4) The litter assessment shall be calculated only on gross sales proceeds of PERSONS IF AT LEAST 65% OF THEIR GROSS SALES PROCEEDS IS DERIVED FROM the following products:

- (a) food for human and pet consumption;
- (b) groceries;
- (c) cigarettes and other tobacco products;
- (d) soft drinks and carbonated beverages;
- (e) ~~liquor~~ wine, beer, and other malt beverages; AND
- (f) tires, motor oil, and crankcase and fuel additives;
- ~~(g)--cleaning-agents-and-toiletries~~
- ~~(h)--nonprescription-drugs~~
- ~~(i)--household--paper--and--paper--products--including~~
~~magazines--periodicals--and--newspapers--and~~
- ~~(j)--glass--metal--or--plastic--containers--or--fiber~~
~~containers--made--of--synthetic-materials~~

~~(7)~~(5) A person selling less than ~~\$50,000~~ \$200,000 worth of all the items specified in subsection ~~(6)~~ (4) during a calendar TAXABLE year is exempt from the tax

1 imposed by this section.

2 ~~(8) The total annual tax required to be paid under~~
3 ~~this section by a person may not exceed \$20,000.~~

4 (6) THE DEPARTMENT OF REVENUE MAY ADOPT RULES TO
5 INTERPRET AND IMPLEMENT THIS SECTION.

6 (7) THE PROVISIONS OF TITLE 15, CHAPTERS 1 AND 2,
7 GOVERN AUDITS, INVESTIGATIONS, AND APPEALS UNDER [THIS ACT].

8 Section 14. Public notice enforcement. (1) Statements
9 and penalties for violating provisions of [this act] shall
10 be posted at such public places as the department considers
11 necessary.

12 (2) The provisions of [this act] and all rules adopted
13 by the department in accordance with [this act] shall be
14 enforced by peace officers of this state, including wardens
15 of the department of fish, wildlife, and parks.

16 Section 15. Municipal litter ordinances --
17 restrictions. (1) A municipality may adopt an ordinance that
18 prohibits and prescribes the same conduct prohibited and
19 prescribed in [section 12 11] or any portion thereof.

20 (2) No local government may enact an ordinance
21 requiring deposits on containers or requiring an assessment
22 on litter-related products.

23 Section 16. Litter patrols. The department may design
24 litter patrol programs and provide financial assistance
25 through grants for litter pickup and removal using youths

aged 14 to 17, on a seasonal basis.

SECTION 17. CODIFICATION INSTRUCTION. SECTION 13 IS INTENDED TO BE CODIFIED AS A NEW CHAPTER IN TITLE 15, AND THE PROVISIONS OF TITLE 15, CHAPTERS 1 AND 2, APPLY TO SECTION 13.

SECTION 18. APPROPRIATION. MONEY DEPOSITED IN THE RESOURCE RECYCLING ACCOUNT PROVIDED FOR IN SECTION 8 IS APPROPRIATED AS FOLLOWS FOR THE BIENNIUM ENDING JUNE 30, 1983:

TO THE DEPARTMENT OF REVENUE FOR ADMINISTRATION OF SECTION 13 -- \$50,000.

TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES FOR ADMINISTRATION OF THE REMAINDER OF THIS ACT -- ALL OTHER FUNDS IN THE ACCOUNT.

Section 19. Repealer. Section 61-8-365, MCA, is repealed.

Section 20. Effective date. This act is effective July 1, 1981, EXCEPT THAT SECTION 13 IS EFFECTIVE FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1980.

~~Section 19. Coordination. If SB 250 [LC 1003] is passed and approved, the definition of "department" in subsection (2) of section 3 is changed to the department of natural resources and conservation provided for in title 2, chapter 15, part 33.~~

-End-

(2) ON APRIL 15 OF EACH YEAR, BEGINNING IN 1982, THE
DEPARTMENT OF REVENUE SHALL:

(a) DETERMINE THE GROSS PROCEEDS FROM THE SALE OF
LIQUOR AND WINE IN STATE LIQUOR STORES DURING THE IMMEDIATELY
PRECEDING CALENDAR YEAR;

(b) SUBTRACT LIQUOR LICENSE AND LIQUOR EXCISE TAXES; AND

(c) DEPOSIT .015% OF THE NET PROCEEDS IN THE RESOURCE
RECYCLING ACCOUNT OF THE EARMARKED REVENUE FUND PROVIDED FOR IN
[SECTION 8].