

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 8, 1985

The meeting of the Natural Resources Committee was called to order by Chairman Dennis Iverson at 3:25 p.m. in Room 312-1 of the State Capitol.

ROLL CALL: All members were present except for Rep. Driscoll, who was excused.

HOUSE BILL 899: Rep. Mike Kadas, District 55, introduced HB 899, which he sponsored. He told the committee that HB 899 is designed to increase the public's knowledge of the need for recycling, and to promote recycling programs. The bill would impose a small tax on bottles, beverage containers and newspapers to pay for the recycling program. HB 899 calls for the creation of an advisory council of representatives from schools and industry to oversee the recycling education and promotion program, said. Rep. Kadas. A copy of his testimony is attached as Exhibit 1.

PROPOSERS: Roger Tippy, executive secretary of the Montana Beer and Wine Wholesalers Association, spoke in support of HB 899. He said the key to raising recycling rates is to promote the idea of recycling, and to make it easier for interested people to take part. He specifically emphasized the need for newspapers to be included in the taxing program to promote recycling. A copy of his testimony is attached as Exhibit 2.

Ben Cohen, vice president of the Montana Solid Waste Contractors' Association, and a representative from District 3, supported HB 899, saying the bill represents the efforts of everyone in that industry. The key to effective recycling is "source separation" of materials to be recycled, and that separation can best be achieved through education of the persons carrying out recycling efforts.

Elton M. Andrew spoke in support of HB 899 on behalf of the Industry Environmental Council of Montana, a non-profit organization of industries interested in promoting conservation of resources through the recycling of materials that are the by-products of those industries. Mr. Andrew suggested that the bill be expanded to include more packaging products in the taxing program. He also noted four minor changes he would like to see made in the bill: 1) a provision for confidentiality of business records; 2) a change in the advisory council membership; 3) exclusion of returnable bottles from the tax; and 4) consolidation of all functions of the act under one agency. A copy of his testimony is attached as Exhibit 3.

Frank Capps, executive director of the Montana Food Distributors Association, said the state's retail grocers support HB 899.

Tim Wylder, vice-president of corporate affairs for Great Falls Coca-Cola Bottling Co., said that business supports HB 899, with some amendments, "in spite of the narrow scope of the tax." He commented that the tax imposed by HB 899 is on recyclable materials only, and said that placing a tax on only those materials, and not on their substitutes, makes those recyclable products less attractive in the marketplace. A copy of his testimony and proposed amendments is attached as Exhibit 4.

JoAnne Peterson, a representative of the Montana Education Association, said that group believes in more recycling, and said that classroom education as proposed in HB 899 is a good way to promote recycling.

Steve Browning, an attorney representing Anhauser-Busch corporation, said that industry supports HB 899 with the caveats expressed by other industry representatives.

Ann Swisher, a representative of the Montana Environmental Information Center, said MEIC supports HB 899, with the reservation that a "litter tax" is not as effective as "bottle bill" legislation. A copy of her testimony is attached as Exhibit 5.

Janet Ellis supported HB 899 on behalf of the Montana Audubon Society. She said that group supports conservation and recycling programs. An anti-litter campaign is neither trite nor unnecessary, she told the committee, and urged HB 899 as a means of bringing that campaign to students. She noted that HB 899 is not a replacement for a bottle bill. A copy of her testimony is attached as Exhibit 6.

There were no further proponents.

OPPONENTS: Mike Meloy, attorney for the Montana Press Association, spoke against passage of HB 899, which he said was a laudable idea, but not a good one. Recycling depends on making recycling financially feasible, and HB 899 does not do that, he said. Education gives industry no incentive to promote recycling, and no economic incentives are offered in the bill, he stated. Additionally, Mr. Meloy told the committee that Section 10 of HB 899 is unconstitutional because it taxes only in-state newspapers, while out-of-state publications sold in Montana will be free of the tax. He also said that newspapers must compete with electronic news media, and HB 899 would force newspapers to pay a tax their competitors do not have to pay.

There were no further opponents, and the floor was opened to questions from committee.

Rep. Ream asked Mr. Wylder what trade secrets he would like to see protected with a confidentiality amendment in the bill, and was told that sales data is an example of information that industries do not want to reveal to competitors.

Rep. Asay asked Mr. Meloy why he felt the bill would be ineffective, and Mr. Meloy replied that it offers no economic incentive for industry participation.

Rep. Moore asked Mr. Meloy why he said that passage of HB 899 would preclude future passage of a bottle bill. He replied that a bottle bill failed to pass in an earlier session, at which time no recycling tax and no educational program existed. The existence of these two factors would now be pointed to by industry as a reason to refuse any further program, he said, and lessen chances for the passage of a bottle bill.

Rep. Ream asked Mr. Meloy how to get around the constitutional issue he warned of, and Mr. Meloy said the best way is to eliminate newspapers from the bill. Rep. Grady commented that newspapers were not singled out, and that beverages are included in the bill as well.

Rep. Miles asked Mr. Wylder to comment on Mr. Tippy's proposed amendments. Mr. Wylder said both sets of amendments were similar, but he preferred his own.

Rep. Kadas closed by saying that it appears that a bottle bill is "out of the question for a long time," but that a recycling program is still a valid pursuit. HB 899 is a good step, he said.

SENATE JOINT RESOLUTION 6: Sen. Chet Blaylock, District 43, introduced SJR 6, which he sponsored. The resolution recommends that the building now under construction to house the DRNC offices be named after the late U.S. Senator Lee Metcalf. The move would honor Sen. Metcalf for his "long and arduous services" to the state, and to environmental causes in particular. The environmental quality Montanans enjoy today is owing to the efforts of Lee Metcalf, said Sen. Blaylock.

PROPOSERS: Karl Englund appeared on his own behalf in support of SJR 6. He said it is entirely fitting and proper to name the DNRC building after Senator Metcalf, especially when the late senator's role in planning and orderly use of the state's resources is considered. Mr. Englund also

asked the committee to avoid partisanship in considering the resolution. It is true, he said, that Sen. Metcalf was a Democrat and a "fierce partisan," but it is more important to consider his 40 years of service to the state, said Mr. Englund.

John Vincent, District 80 representative, spoke in support of SJR 6, noting that the resolution should not be viewed in a partisan way. Senator Metcalf was a respected statesman, he said, and was capable of consolidating support from all sides. The naming of the DNRC building would be a fitting tribute to the Senator in return for his services, said Rep. Vincent.

Steve Browning appeared on his own behalf to support SJR 6. He said that partisan politics should not enter the debate, noting that from the committee room window he could see the Mitchell and Cogswell Buildings, both named for men who served the state. Mr. Browning said he did not know the party affiliation of either of those men, and it was clear that their service to Montana superseded partisan politics.

Representatives Addy and Moore asked to be put on record in support of SJR 6.

There were no further proponents, and no opponents of the resolution.

Rep. Asay asked if any other entities in the state are named after Senator Metcalf and was told that there is a wilderness area and a wildlife refuge named after the late senator.

EXECUTIVE ACTION:

SENATE JOINT RESOLUTION 6: Rep. Raney moved DO PASS on SJR 6, and that motion was unanimously approved.

HOUSE BILL 892: Rep. Kadas moved DO PASS on HB 892, the riparian lands protection act sponsored by Rep. Harper. Rep. Kadas then moved an amendment changing the effective date of that bill, which was unanimously approved. Rep. Kadas's motion of DO PASS AS AMENDED on the bill was approved, with Reps. Asay and Peterson voting no. Rep. Kadas then moved the statement of intent, which was approved with only Rep. Peterson voting no.

The committee then went out of executive session, and opened the public hearing on SJR 12.

SENATE JOINT RESOLUTION 12: Sen. Elmer Severson, District 12, introduced SJR 12, which he sponsored. The resolution would extend the state's participation in the Western States Legislative Forestry Task Force. The task force addresses a multitude of forest-related issues affecting western states, and gives representatives of Montana a chance to discuss those issues with decision makers, said Sen. Severson.

PROPOSERS: Rep. Bernie Swift, District 64, spoke in support of SJR 12. He said he favors SJR 12 because of the critical impact of forestry upon the economy of the six states involved in the task force. Joint policy making benefits all states, he said.

Rep. Bob Ream, a member of the task force, supported the resolution. He said there is considerable value in interaction with other states regarding forest use issues.

Don Allen, from the Montana Wood Products Association, told the committee it is critical that Montana be represented at every level of forestry decision-making. He said that he has watched Montana's participation in the task force for ten years, and is convinced of its effectiveness.

Rep. Clyde Smith, District 5, said SJR 12 is strongly supported by the Montana Logging Association.

There were no further proponents, and no opponents.

Rep. O'Hara asked how the task force participation is funded, and was told that it receives a \$25,000 allocation from the general fund each biennium.

Rep. Moore asked if the task force addresses problems of international markets for wood products, and Sen. Severson said the group has worked with industry and government representatives from other counties and the U.S. Federal Reserve Bank to address those issues.

Rep. Asay asked how much income the general fund receives from forests, and Rep. Ream estimated \$2 million, plus payments made to counties from federal forest land receipts.

EXECUTIVE ACTION ON SJR 12: Rep. Smith moved that SJR 12 BE CONCURRED IN. Rep. Kadas opposed the resolution because the state has better uses for the money. The motion passed, with Reps. Iverson and Kadas voting no.

There being no further business before the committee, the meeting was adjourned at 5:35 p.m.


Rep. DENNIS IVERSON, Chairman

DAILY ROLL CALL

HOUSE NATURAL RESOURCES

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date

3/8/85

NAME	PRESENT	ABSENT	EXCUSED
IVERSON, Dennis (Chairman)	✓		
KADAS, Mike (Vice-Chairman)	✓		
ADDY, Kelly	✓		
ASAY, Tom	✓		
COBB, John	✓		
DRISCOLL, Jerry			✓
GARCIA, Rodney	✓		
GRADY, Edward	✓		
HARP, John	✓		
JONES, Tom	✓		
KRUEGER, Kurt	✓		
MILES, Joan	✓		
MOORE, Janet	✓		
O'HARA, Jesse	✓		
PETERSON, Mary Lou	✓		
RANEY, Bob	✓		
REAM, Bob	✓		
SMITH, Clyde	✓		

STANDING COMMITTEE REPORT

.....MARCH 9..... 19 85.....

MR. ~~SPEAKER~~.....

We, your committee on.....NATURAL RESOURCES.....

having had under considerationHOUSE BILL 392.....~~AMENDED~~.....

FIRST reading copy (WHITE)
color.

AN ACT TO BE CITED AS THE RIPARIAN LANDS PROTECTION ACT

Respectfully report as follows: That.....HOUSE..... Bill No. 392.....

BE AMENDED AS FOLLOWS:

- 1) Title, line 8.
Strike "A DELAYED"
Insert: "AN"
- 2) Page 11, line 17.
Strike: "January 1, 1986"
Insert: "July 1, 1985"

AND AS AMENDED,

DO PASS

~~DO PASS~~

STATEMENT OF INTENT ATTACHED

STATEMENT OF INTENT FOR HB 892

It is the intent of the legislature that the department of fish, wildlife, and parks adopt rules setting forth standards for the designation of riparian habitat and wetland. The department may adopt rules specifying requirements for action programs, definitions of incompatible uses, and other provisions necessary to administer this act.

It is the intent of the legislature that the department of revenue adopt rules necessary for the administration of this act.

It is the intent of the legislature that rules necessary for the administration of this act be adopted so applications for wetland and riparian habitat designation can be received and processed in time to allow qualifying lands to be exempt from property taxation beginning in 1987.

STANDING COMMITTEE REPORT

March 8

85

19.....

MR. **SPEAKER**

We, your committee on **NATURAL RESOURCES**

having had under consideration **SENATE JOINT RESOLUTION NO. 6** **SENATE**

THIRD reading copy (**BLUE**)
color

**A RESOLUTION TO NAME THE NEW DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION BUILDING THE "LEE HETCALF" BUILDING."**

Respectfully report as follows: That **SENATE JOINT RESOLUTION NO. 6** **SENATE**

BE CONCURRED IN

DOPASS


.....
REP. DENNIS IVERSON, Chairman.

STANDING COMMITTEE REPORT

.....MARCH 8..... 19 35.....

MR. SPEAKER:.....

We, your committee on NATURAL RESOURCES.....

having had under consideration ~~HOUSE~~ SENATE JOINT RESOLUTION ~~SENATE~~ NO. 12

THIRD reading copy (BLUE)
color

A RESOLUTUION TO SEND DELEGATES TO THE WESTERN STATES
LEGISLATIVE FORESTAY TASK FORCE

Respectfully report as follows: That.....SENATE JOINT RESOLUTION NO. 12..... ~~SENATE~~.....

BE CONCURRED IN

~~DOX RASSE~~

HB ~~899~~ 899

I. The Numbers.

Every year, the state of Montana produces about 500,000 tons of processable solid waste, including paper and cardboard litter, glass bottles, and aluminum and steel cans. However, Montanans sold only about 14,000 tons of solid waste to recycling businesses, as of 1983.

In other words, only 2.8% of the processable solid waste produced by this state is being recycled. It is true that about 54% of aluminum beverage cans and 47% of steel cans are currently being recycled, but the easy collection and recovery of these popular item should result in even higher percentages.

The Environmental Protection Agency has calculated that the costs of disposal of solid waste average \$35/ ton. Therefore, if 50,000 tons of litter were recycled annually, Montana citizens would pay almost \$2 million less in yearly disposal costs.

Montanans can, and should, do a lot more recycling. That is the goal of this bill.

II.. Curriculum Development and Coordination.

The development of curriculum materials for use in elementary and secondary schools is a hallmark of this proposal. Posters, filmstrips, and recycling-related reading texts can have a strong influence on children in their impressionable years. These days, there is a lot of talk about schools and teachers and their role in forming the values of our children; a clean environment and wise stewardship of our natural resources, however, should be taught just as diligently as patriotism and respect for the rights of others.

Although groups as diverse as the 4-H Clubs and the League of Women Voters may currently do some work to promote recycling, only a state program can work within the existing public school system and coordinate the state's various promotions aimed at the adult population.

III. The Developmentally Disabled.

Currently, the Department of Social and Rehabilitational Services conducts a program of non-profit "sheltered workshops" in which developmentally disabled persons may work collecting recyclable material. Increased recycling awareness within the general public can strengthen these workshops.

IV. Programs in other States.

Oregon, Washington, New Jersey, and Ohio are among the other states which

have wide-ranging programs to nurture good recycling attitudes and habits.

One popular element of these programs is the "recycling hotline." this is a toll-free telephone line from which the public can get such information as the location of the nearest recycling centers and the proper method of packing collected matter. Ohio and Oregon, for example, have these hotlines.

BEFORE THE NATURAL RESOURCES COMMITTEE
MONTANA HOUSE OF REPRESENTATIVES

House Bill 899 by Kadas)
Recycling Education and)
Promotion Programs)

STATEMENT IN SUPPORT:
MONTANA BEER AND WINE
WHOLESALERS ASSN.

I am Roger Tippy of Helena, Executive Secretary of the Montana Beer and Wine Wholesalers Association. The beer wholesalers of the state support HB899 and urge its passage.

Beer comes to market in three types of containers: kegs, cans, and bottles. The can is heavily preferred by Montana consumers, accounting for over two-thirds of all beer sold. All the beer cans marketed in Montana have been aluminum for some years, and the distributors and breweries are very conscious of the recycling value of the empty aluminum can. Many wholesalers either operated their own recycling programs or provided seed money to such programs until they became self-sustaining.

A Legislative Council study of recycling several years ago found that 43% of all aluminum beverage containers were taken back to recycling centers in 1978. This return rate rose to 54% by 1983. The beer industry is pleased to see the return rate going up so significantly.

The key to raising these return rates even higher is to market the recycling idea effectively, and to make it easier for people interested in recycling to do so. Marketing costs money for any industry. Given the extent of nonprofit and close-margin operations in the recycling industry, a good case can be made for funding the marketing effort through the state's taxing power. Landfill capacity saved by increased recycling rates will mitigate local property tax rates. In this regard, HB899 is to be commended in its focus on newspapers and beverage cans. These are the main stock in trade at the recycling centers. They have established markets, and if another 10% of each is recycled, the bill will more than pay for itself.

It would be possible to reduce the administrative overhead contemplated in the fiscal note. This would be to consolidate the collection function with the rest of the duties vested in the Department of Health and Environmental Sciences. The amendments attached to my testimony would do that. Other amendments would extend confidentiality to the monthly reports (the soft drink industry needs this), put a grocer on the advisory council, and clarify the beverage industry appointments of the advisory council, and would amend the definition of container to include plastic bottles.

DATED: March 8, 1985.

HOUSE BILL 899
Suggested Amendments

Ex. 2, p. 2
3/8/85

1. Page 2, line 7
Following: "glass"
Insert: "or plastic"

Comment: This would cover alternative packaging materials.
2. Page 3, line 5
Following: "(a)"
Strike: "two representatives"
Insert: "one representative"

Comment: These amendments (2 and 5) would put a grocer on the advisory council in place of the second teacher, and (3 and 4) would specify that the in-state soft drink and beer distributing industries would each have one seat on the council.
3. Page 3, line 6
Following: "wholesale"
Strike: "beverage"
Insert: "beer"
4. Page 3, lines 9, 10
Following: "the"
Strike: "beverage or beverage container"
Insert: "soft drink bottling and distribution"
5. Page 3, line 13
Following: "organization"
Insert: "; and (h) a representative of the retail grocery industry"
6. Page 7, line 24
Following: "department"
Strike: "of revenue"

Comment: These amendments (6 and 7) would make the State Health Department the collection agency. This should reduce the overhead aspect of the fiscal note by at least \$11,000 a year.
7. Page 8, line 1
Following: "department"
Strike: "of revenue"
8. Page 8, line 2
Following: line 1
Insert: "(4) Information furnished on tax reports is a trade secret and is not subject to public inspection."

Comment: This amendment preserves confidentiality in the soft drink industry as it presently exists.

HB 899

EXHIBIT 3
3/8/85

TESTIMONY BEFORE THE NATURAL RESOURCES COMMITTEE
MONTANA HOUSE OF REPRESENTATIVES- March 8, 1985

Mr. Chairman and members of the Committee:

I am Elton M. Andrew, 3000 Villard, #141A, Helena, MT.

I am appearing here today on behalf of the Industry Environmental Council of Montana, a non-profit organization of industries interested in promoting conservation of resources through the recycling of used material that are by-products of our businesses. I am the Executive Director serving without pay.

House Bill 899 proposes to tax beverage containers and newsprint. The proceeds are to be used for the purpose of education and promotion of recycling. The avowed intention is laudable and is certainly worthy of consideration by this body. Some states have already adopted some form of program similar to this proposal. The success has varied with the funding available and relative to the efforts of the enforcing agency.

The beverage industry has some basic objections to this legislation, inasmuch as it attacks only two sources of the solid waste stream going into our landfills. For example, according to a study by the Office of Solid Waste (Federal 1977), newspapers contribute 6.5%: books and magazines 2.35: Office paper 3.85: tissue paper and towels 1.6%, or a total of 14.2% of non-durable goods excluding food. Beer and soft drinks in glass 4.7%: beer and soft drinks in steel cans 1.05: beer and soft drinks in aluminum 0.4% for a total of 6.15 of the 9.2% of packaging materials. Paper, paperboard and paper packaging represents 17.0% of solid waste. What I am saying is that this legislation is proposing to tax 12.6% of solid waste in order to care for the other 87.4%. This hardly seems fair to us who are collecting and paying the tax.

In this reference, it should also be noted that in Montana, 55% of all aluminum beverage containers are already being recycled and this percentage is increasing. Beer in steel cans constitutes an infinitesimal part of the beer market in Montana. Returnable glass, although a minor part of the soft drink and beer mix, further reduces the numbers of beverage containers entering the waste stream. I have no figures on newsprint, but I do know that there is some recovery. I believe that you can understand our basic objection. We are a minor part of the solid waste stream in Montana.

Ex. 3, p 2
3/8/85

However, we did introduce this type of legislation in 1981. That proposed Act was more inclusive. It failed. If this can be considered as a first step in establishing a complete recycling program in Montana, we are willing to lend our support.

We would, however, like to see some minor changes:

First, the soft drink industry would like to be assured that the records kept concerning sales and manufacturing volumes be not open to public inspection. The reason is to maintain a competitive market. It should be remembered that in Montana, Soft drink distributors are also soft drink manufacturers and sales volumes are closely held matters.

Second, we believe that there should be a more definitive description of who will be members of the advisory council. we would like to specify that one member be a soft drink bottler and one member be a beer distributor, substituting one of these for one of the educators.

Third, we would exclude from the tax, returnable bottles as they already have an established market value for reclamation.

Fourth, if possible, we think that all functions of the Act should be placed in one agency. The tax should be collected and the funds disbursed by the same office. We think that the costs of administration would be less and more funds be available for education and promotion.

We are not opposed to shouldering our fair share of responsibility in this field and are prepared to aid and assist with the thought that if successful, this legislation be expanded to other segments of the industry contributing to the problem of solid waste disposal.

Ex. 3, p3
3/8/85

TABLE I
COMPONENTS OF MUNICIPAL SOLID WASTE, 1975*
(Based on wet weights)

Product	% of total waste-generated	
Durable goods		<u>10.9</u>
Major appliances	1.8	
Furniture, furnishings	2.5	
Rubber tires	1.3	
Miscellaneous durables	5.3	
Nondurable goods, excluding food		<u>17.8</u>
Newspapers	6.5	
Books, magazines	2.3	
Office paper	3.8	
Tissue paper, including towels	1.6	
Paper plates, cups	.4	
Other nonpackaging paper	.8	
Clothing, footwear	.9	
Other miscellaneous nondurables	1.5	
Containers and packaging		
Glass containers		<u>9.2</u>
Beer, soft drink	4.7	
Wine, liquor	1.3	
Food and other	3.2	
Steel cans		<u>4.1</u>
Beer, soft drink	1.0	
Food	2.3	
Other nonfood cans	.6	
Barrels, drums, pails, misc.	.2	
Aluminum		<u>0.6</u>
Beer, soft drink	.4	
Other cans	.02	
Aluminum foil	.2	
Paper, paperboard		<u>17.0</u>
Corrugated	9.2	
Other paperboard	4.0	
Paper packaging	3.8	
Plastics		<u>3.3</u>
Plastic containers	.3	
Other packaging	1.6	
Wood packaging	1.3	
Other miscellaneous packaging	.1	
Total nonfood product waste		<u>62.9</u>
Add: Food waste	16.7	
Yard waste	19.2	
Miscellaneous inorganic waste	1.4	
Total		100

Source: Fourth Report to Congress: Resource Recovery and Waste Reduction, pp. 14, 17; Office of Solid Waste, Resource Recovery Division, and Franklin Assoc., Ltd.,

* revised January 1977. Details may not add due to rounding.

EXHIBIT 4
3/8/85



March 8, 1985

HAND DELIVERED

House Natural Resources Committee
Montana House of Representatives
State Capitol
Helena, Montana

Ladies and Gentlemen:

Re: House Bill 899

We at Great Falls Coca-Cola Bottling Co. and our affiliated companies in Missoula and Kalispell support House Bill 899 as a first step in achieving a comprehensive litter control and recycling program. Our support of this bill, in spite of our legitimate concerns about its narrow scope, is evidence of our good faith commitment to that goal.

In the 1981 legislature a bill was introduced at the request of the Industry and Environmental Council (IEC), of which we are members, that provided for comprehensive litter control supported by a broad based tax on all elements in the litter stream. Many potential taxpayers were successful in eliminating their products from the bill, including newspapers and paper products generally. Because of the unfair tax burden that would have resulted, the IEC was then forced to withdraw its support from the bill.

House Bill 899 as written imposes a tax on certain recyclable materials--beverage containers and newspapers--in order to fund programs that will promote recycling and reduce litter. These two categories of materials were apparently chosen because they have recyclable value. Products not taxed include plastic bottles, paper beverage containers, paper cups, fast food wrappers and other packaging in general.

The Committee should note that there is something inconsistent about attempting to promote the use of recyclable materials by placing a tax on them alone, and not their substitutes, thereby making them less attractive to consumers in the marketplace.

Nevertheless, with the amendments we are proposing today, we will support House Bill 899 as a first step in achieving a comprehensive litter control and recycling program, as a gesture of our good faith, and as a good means of funding the educational programs needed to make recycling effective.

The amendments we propose are attached as Exhibit A and

are explained below. Other members of the IEC are presenting amendments that we concur in and that dovetail with those set forth on Exhibit A.

Amendment 1--Definition of "Beverage" and "Container"

"Beverage" Because we see no rational basis for excluding wine and noncarbonated soft drinks from the scope of the tax, and because excluding those beverages unfairly discriminates against the included beverages, we propose to amend the definition of "beverage" to include wine and noncarbonated soft drinks.

"Container" Similarly, to avoid the inconsistent economic result of discriminating in favor of nonrecyclable containers, pointed out above, we propose to amend the definition of "container" to include plastic (e.g., PET) bottles and paper (aseptic) containers. Because the word "sealed" modifies all of the categories of containers, it will be clear that paper cups and the like are not included in the scope of the bill (although perhaps they should be).

Exclude Deposit Containers Because the high deposit on returnable containers such as pop bottles is a strong economic incentive to "recycle" them, and because such "recycling" results in multiple fillings of the same container, we believe that deposit containers should be excluded from the tax to provide a justified price advantage for that package.

Amendment 2--Conform Language in Tax Section

Including some containers made from nonrecyclable materials in the definition of "container" requires that the language of Section 10 of the bill be modified to reflect that change. No substantive change in Section 10(1) results from the suggested language.

The Committee should be aware that if any potential taxpayer under this bill is successful in carving out his product from the tax, we will then vigorously oppose the bill as unacceptably discriminatory.

To conform with other amendments that are being proposed today, the reference to the "department of revenue" in Section 10(3) has been changed to "department," referring to the department of health and environmental sciences.

Amendment 3--Deletion of Department of Revenue Authority

See preceeding paragraph.

Amendment 4--Confidentiality of Tax Records

The reporting required to administer the tax involves sales data that are very sensitive and constitute valuable trade secrets

EX. 4, P.3
3/8/85

in the soft drink industry. Thus, it is absolutely imperative that soft drink firms can be assured that their trade secrets will not be disclosed as a result of supporting this tax. Accordingly, we propose the language of Amendment 4 to protect this vital interest. The language is taken with conforming changes from MCA 15-30-303, the confidentiality provision in the income tax laws. The soft drink industry cannot support the bill, and indeed would vigorously oppose it, without this amendment.

Thank you for your consideration. We look forward to working with you in making House Bill 899 a workable and fair piece of legislation.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Timothy J. Wyder". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Timothy J. Wyder
Vice President-Corporate Affairs

EXHIBIT A

PROPOSED AMENDMENTS TO HB 899

March 8, 1985

1. AMEND SECTION 2 OF HB 899 (THE BILL) TO READ AS FOLLOWS:

Section 2. Section 75-10-301 is amended to read:

"75-10-301. Definitions. As used in ~~75-10-302~~ this part, the following definitions apply:

(1) "Account" means the resource recycling account provided for in [section 8].

~~41~~(2) "Beverage" means beer or other malt beverage, wine, mineral water, soda water, tea, or carbonated or noncarbonated soft drink in liquid form and intended for human consumption.

~~42~~(3) "Container means an individual, separate, sealed metal can, glass or plastic bottle, or paper container containing a beverage, excluding however, any such container for which a deposit is collected.

. . .

. . . (continued unchanged)

. . .

2. AMEND SECTION 10 OF THE BILL TO READ AS FOLLOWS:

NEW SECTION. Section 10. Tax on beverage containers.

(1) There is a tax imposed upon beverage containers at the rate of \$00.0085 per 24 containers and upon newsprint at the rate of \$00.50 per 1000 pounds.

(2) The tax on beverage containers must be remitted by the entity in the distribution chain which supplies the containers to retail outlets. The tax on newsprint must be remitted by the entity which supplies the newsprint to a newspaper.

(3) The tax on containers or newsprint supplied in each month must be remitted to the department by the 15th day of the following month on forms prescribed by the department.

3. DELETE SECTION 12 OF THE BILL

4. ADD A NEW SECTION 12 TO THE BILL TO READ AS FOLLOWS:

NEW SECTION. Section 12. Confidentiality of tax records.

(1) Except in accordance with proper judicial order or as otherwise provided by law, it is unlawful for the department or any deputy, agent, clerk, or other officer or employee to divulge or make known in any manner the amount of sales of beverage containers or newsprint or any other information secured in the administration of this part.

(2) The officers charged with the custody of such reports and returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except in any action or proceeding to which the department is a party under the provisions of this part or on behalf of any party to any action or proceedings under the provisions of this part when the reports or facts shown thereby are directly involved in the action or proceedings, in either of which events the court may require the production of and may admit in evidence so much of such reports or of the facts shown thereby as are

Ex. 4, p6
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pertinent to the action or proceedings and no more.

(3) Nothing herein shall be construed to prohibit:

(a) The delivery to a taxpayer or his duly authorized representative of a certified copy of any return or report filed in connection with this tax; or

(b) the publication of statistics so classified or aggregated as to prevent the identification of particular reports or returns and the items thereof or the taxpayer.

(4) Any offense against subsections (1) through (4) of this section shall be punished by a fine not exceeding \$1000 or by imprisonment in the county jail not exceeding 1 year, or both, at the discretion of the court, and if the offender be an officer or employee of the state, he shall be dismissed from office and be incapable of holding any public office in this state for a period of 1 year thereafter.



The Montana Environmental Information Center

3/8/85

- P.O. Box 1184, Helena, Montana 59624
- Flathead Office 433 S. Main, Kalispell 59901

(406) 443-2520
(406) 755-7763

TESTIMONY IN SUPPORT OF HB 899

Mr Chairman and Members of the Committee,

My name is Ann Swisher and I represent the Montana Environmental Information Center. I am speaking in support of HB 899 with minor reservations. Our only reservation is that litter taxes such as these have not been as effective as deposit legislation such as a "bottle bill."

The way litter tax has worked in other states is the money has been used to purchase litter bags for cars, pay people to collect litter along the highway and other similar projects. This bill however uses the money in an education and promotion program, and as far as litter tax bills go, this is a good one. We do feel that if the beverage containers were worth 5¢ or 10¢ each, as in deposit legislation, then people wouldn't throw them out in the first place. We believe that with beverage containers, a deposit legislation deals with it better, promoting higher rates of recycling.

We do support this bill. If the industry wants to place a tax on itself, that's fine. And we strongly support the education and promotional recycling program.

EXHIBIT 4
3/8/85

Montana Audubon Council
Testimony on HB 899
March 8, 1985

Mr. Chairman and Members of the Committee,

My name is Janet Ellis and I'm here today representing the Montana Audubon Society.

The Council supports public education programs that promote conservation of our resources. Conservation and recycling make good sense. And if people learn why it is important to conserve and recycle, they will be much more interested in doing so.

It seems particularly important to get recycling education into our schools. In 1985 many adults seem to feel that an anti-littering campaign is trite and unnecessary - they've heard the message too many times before. But it's obvious from seeing our highways and city streets that the message hasn't sunk in. Teaching students about recycling is a good place to begin.

Whereas the Council supports HB 899, we do not see it as a replacement for more comprehensive bottle bill legislation. The taxes proposed in HB 899, however, do seem like a small price to pay for the benefits Montana could realize from a recycling education program.

VISITOR'S REGISTER

HOUSE NATURAL RESOURCES COMMITTEE

BILL STR 6

DATE 3/8/85

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IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

House Natural Resources

COMMITTEE

BILL NO. HB 899DATE March 8, 1985SPONSOR KADAS

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Timothy (Tim) J. Wylder	Great Falls	✓ w/ Amend	
Roger Tippy	Helena	✓ "	
Frank Capps	MT. FOOD DISTRIBUTORS HELENA ASSN.	✓	
Ann Swisher	MEIC	✓	
John Pato - 91	MEA	✓	
Bill Dimick	Billings		
Janet Ellis	MT Audubon Council	✓	
Bob Penier	Missoula	✓	
Steve Browning	Helena ^{Angewer Busch}	✓ with amendments	
Julie Dalaglio	Montpelier Helena		
Betty Peltier	Eureka Mt.		
Charles & Dorothy Hamilton	Eureka Mt.		

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PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE NATURAL RESOURCES COMMITTEE

BILL SJR 12

DATE 3/8/85

SPONSOR Sawerson

[illegible]

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WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.