

1 *House Bill (HB) 425*
 2 INTRODUCED BY *Ellis Jay* *Roback*
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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A PROGRAM
 5 FOR THE CONTROL OF LITTER WITHIN THE STATE; ESTABLISHING
 6 THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AS THE
 7 ENFORCING AGENCY; PROHIBITING LITTERING AND PROVIDING FINES;
 8 ESTABLISHING THE RESPONSIBILITY FOR THE REMOVAL OF LITTER;
 9 ESTABLISHING A LITTER ASSESSMENT UPON CERTAIN ITEMS;
 10 ESTABLISHING A LITTER CONTROL ACCOUNT WITHIN THE GENERAL
 11 FUND; REPEALING SECTIONS 94-3335 THROUGH 94-3344, R.C.M.
 12 1947; AND PROVIDING AN EFFECTIVE DATE."

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

15 Section 1. Legislative findings. Recognizing the
 16 fundamental need for a clean and healthful environment in
 17 Montana for present and future generations; and further
 18 recognizing that the proliferation and accumulation of
 19 litter discarded throughout this state impairs this need and
 20 constitutes a public health hazard; and further recognizing
 21 that there is an imperative need to anticipate, plan for,
 22 and accomplish effective litter control, there is hereby
 23 enacted this "Model Litter Control Act".

24 Section 2. Declaration of purpose. The purpose of
 25 this act is to accomplish litter control throughout this

1 state by delegating to the department of natural resources
 2 and conservation the authority to conduct a permanent and
 3 continuous program to control and remove litter from this
 4 state to the maximum practical extent possible. Every other
 5 department of state government and all local governmental
 6 units and agencies of this state shall cooperate with the
 7 department in the administration and enforcement of this
 8 act. The intent of this act is to add to and to coordinate
 9 existing litter control and removal efforts and not
 10 terminate or supplant such efforts.

11 Section 3. Definitions. As used in this act unless
 12 the context indicates otherwise: (1) "Department" means
 13 the department of natural resources and conservation.

14 (2) "Director" means the director of the department.

15 (3) "Disposable package or container" means all
 16 packages or containers so defined by rules and regulations
 17 adopted by the department of natural resources and
 18 conservation under this act.

19 (4) "Litter" means all waste material including but
 20 not limited to disposable packages or containers thrown or
 21 deposited as prohibited in this act, but not including the
 22 wastes of the primary processes of mining, logging,
 23 sawmilling, farming, or manufacturing.

24 (5) "Litter bag" means a bag, sack, or other container
 25 made of any material that is large enough to serve as a

1 receptacle for litter inside the vehicle or watercraft of
 2 any person. It is not necessarily limited to the state
 3 approved litter bag but must be similar in size and
 4 capacity.

5 (6) "Litter receptacle" means those containers for
 6 disposal of litter adopted by the department, which may be
 7 standardized as to size, shape, capacity, and color, and
 8 which shall bear the state anti-litter symbol, as well as
 9 any other receptacles suitable for the depositing of litter.

10 (7) "Person" means any industry, public or private
 11 corporation, copartnership, association, firm, individual,
 12 or other entity.

13 (8) "Vehicle" includes every device capable of being
 14 moved upon a public highway and in, upon, or by which any
 15 persons or property is or may be transported or drawn upon a
 16 public highway, excepting devices moved by human or animal
 17 power or used exclusively upon stationary rails or tracks.

18 (9) "Watercraft" means any boat, ship, vessel, barge,
 19 or other floating craft.

20 (10) "Public place" means any area that is used or held
 21 out for use by the public, whether owned or operated by
 22 public or private interests.

23 Section 4. Rules and regulations. In addition to
 24 other powers and duties, enumerated in this act, the
 25 director shall have the authority to propose and to adopt

1 rules necessary to carry out the provisions, purposes, and
 2 intent of this act.

3 Section 5. Enforcement of act. The director may
 4 designate trained employees of the department to be
 5 authorized to enforce and administer the provisions of this
 6 act and all rules adopted under it. The director shall also
 7 have authority to contract with other state and local
 8 governmental agencies having law enforcement capabilities
 9 for services and personnel reasonably necessary to carry out
 10 the enforcement provisions of this act. In addition, state
 11 patrol officers, game wardens and deputy game wardens, fire
 12 wardens, deputy fire wardens and forest rangers, sheriffs
 13 and their deputies, and police officers, shall enforce the
 14 provisions of this act and all rules adopted under it. All
 15 enforcement personnel are empowered to issue citations to
 16 and/or arrest without warrant persons violating any
 17 provision of this act or any of the rules adopted under it.
 18 All enforcement officers may serve and execute all warrants,
 19 citations, and other process issued by the courts in
 20 enforcing the provisions of this act and rules adopted under
 21 it. In addition, mailing by registered mail of any warrant,
 22 citation or other process to his last known place of
 23 residence shall constitute personal service upon the person
 24 charged.

25 Section 6. Littering prohibited -- penalties. No

1 person shall throw, drop, deposit, discard, or otherwise
 2 dispose of litter upon any public property in the state, or
 3 upon private property in this state not owned by him, or in
 4 the waters of this state whether from a vehicle or otherwise
 5 including but not limited to any public highway, public
 6 park, beach, campground, forest land, recreational area,
 7 trailer park, highway, road, street or alley except:
 8 (1) When the property is designated by the state or by any
 9 of its agencies or political subdivisions for the disposal
 10 of garbage and refuse, and the person is authorized to use
 11 the property for such purpose;

12 (2) Into a litter receptacle in such a manner that the
 13 litter will be prevented from being carried away or
 14 deposited by the elements upon any part of the private or
 15 public property or waters.

16 Any person violating the provisions of this section
 17 shall be guilty of a misdemeanor and the fine or bail
 18 forfeiture for such violation shall be not less than ten
 19 dollars (\$10) for each offense. In the sound discretion of
 20 any court in which conviction is obtained, the person may be
 21 directed by the judge to pick up and remove from any public
 22 place or any private property with prior permission of the
 23 legal owner upon which it is established by competent
 24 evidence that such person has deposited litter, any or all
 25 litter deposited on it by anyone prior to the date of

1 execution of sentence.

2 Section 7. Collection of fines and forfeitures. The
 3 director shall prescribe the procedures for the collection
 4 of fines and bail forfeitures including the imposition of
 5 additional penalty charges for late payment of fines.

6 Section 8. Notice to public -- contents of act --
 7 required. Pertinent portions of this act shall be posted
 8 along the public highways of this state, in all campgrounds
 9 and trailer parks, at all entrances to state parks, forest
 10 lands, and recreational areas, at all public beaches, and at
 11 other public places in this state where persons are likely
 12 to be informed of the existence and content of this act and
 13 the penalties for violating its provisions.

14 Section 9. Litter receptacles -- use of anti-litter
 15 symbol -- distribution -- placement -- violations --
 16 penalties. The department shall design and the director
 17 shall adopt by rule one (1) or more types of litter
 18 receptacles which are reasonably uniform as to size, shape,
 19 capacity, and color, for wide and extensive distribution
 20 throughout the public places of this state. Each such
 21 litter receptacle shall bear an anti-litter symbol as
 22 designed and adopted by the department. In addition, all
 23 litter receptacles shall be designed to attract attention
 24 and to encourage the depositing of litter.

25 Litter receptacles of the uniform design shall be

1 placed along the public highways of this state and all
 2 parks, campgrounds, trailer parks, drive-in restaurants,
 3 gasoline service stations, tavern parking lots, shopping
 4 centers, grocery store parking lots, parking lots of major
 5 industrial firms, marinas, boat launching areas, boat
 6 moorage and fueling stations, public and private piers,
 7 beaches and bathing areas, and such other public places
 8 within the state as specified by rule of the director. The
 9 number of such receptacles required to be placed as
 10 specified under this section shall be determined by a
 11 formula determined by the department to be related to the
 12 need for such receptacles.

13 It shall be the responsibility of any person owning or
 14 operating any establishment or public place in which litter
 15 receptacles of the uniform design are required by this
 16 section to procure and place such receptacles at their own
 17 expense on the premises in accord with rules adopted by the
 18 department.

19 Any person who fails to place litter receptacles on the
 20 premises in the numbers required by rule of the department
 21 in violation of the provisions of this section or rules
 22 adopted under it shall be subject to a fine of ten dollars
 23 (\$10) for each day of violation.

24 Section 10. Litter bags -- design and distribution by
 25 department authorized -- violations -- penalties. The

1 department may design and produce a litter bag bearing the
 2 statewide anti-litter symbol and a statement of the
 3 penalties prescribed herein for littering in this state.
 4 As soon as possible after May 21, 1975, these litter bags
 5 may be distributed by the department of highways at no
 6 charge to the owner of every licensed vehicle in this state.
 7 The department of natural resources and conservation may
 8 make such litter bags available to the owners of watercraft
 9 in this state and may also provide such litter bags at no
 10 charge at points of entry into this state and at visitor
 11 centers to the operators of incoming vehicles and
 12 watercraft. The owner of any vehicle or watercraft who
 13 fails to keep and use a litter bag in his vehicle or
 14 watercraft shall be guilty of a violation of this section
 15 and shall be subject to a fine as provided in section 20 of
 16 this act.

17 Section 11. Removal of litter --
 18 responsibility. Responsibility for the removal of litter
 19 from receptacles placed at parks, beaches, campgrounds,
 20 trailer parks, and other public places shall remain upon
 21 those state and local agencies performing litter removal.
 22 Removal of litter from litter receptacles placed on private
 23 property which is used by the public shall remain the
 24 responsibility of the owner of such private property.

25 Section 12. Litter assessment -- amount --

1 collection. There is hereby levied, and there shall be
 2 collected by the department of revenue from every person
 3 engaging within this state in business as a manufacturer
 4 and/or making sales at wholesale and/or making sales at
 5 retail, an annual litter assessment equal to the value of
 6 products manufactured and sold within this state, including
 7 by-products, multiplied by one and one-half hundredths of
 8 one percent (.015%) in the case of manufacturers, and equal
 9 to the gross proceeds of the sales of the business within
 10 this state multiplied by one and one-half hundredths of one
 11 percent (.015%) in the case of sales at wholesale and/or
 12 retail.

13 Section 13. Litter assessment -- application to
 14 certain products. (1) Because it is the express purpose of
 15 this act to accomplish effective litter control within the
 16 state of Montana, and because it is a further purpose of
 17 this act to allocate a portion of the cost of administering
 18 it to those industries whose products including packages,
 19 wrappings, and containers, are reasonably related to the
 20 litter problem, in arriving at the amount upon which the
 21 assessment is to be calculated, only the value of products
 22 or the gross proceeds of sales of products falling into the
 23 following categories shall be included:

- 24 (a) food for human or pet consumption,
 25 (b) groceries,

- 1 (c) cigarettes and tobacco products,
 2 (d) soft drinks and carbonated waters,
 3 (e) beer and other malt beverages,
 4 (f) newspapers and magazines,
 5 (g) household paper and paper products,
 6 (h) glass containers,
 7 (i) metal containers,
 8 (j) plastic or fiber containers made of synthetic
 9 material,
 10 (k) cleaning agents and toiletries,
 11 (l) nondrug drugstore sundry products.

12 (2) The department of revenue by rule may define the
 13 categories (1) through (12) as set forth in this section.
 14 In making any such definitions, the department of revenue
 15 shall be guided by the following standards:

16 (a) it is the purpose of this act to accomplish
 17 effective control of litter within this state;

18 (b) it is the purpose of this act to allocate a
 19 portion of the cost of administration of this act to those
 20 industries manufacturing and/or selling products and the
 21 packages, wrappings, or containers of them, which are
 22 reasonably related to the litter problem within this state.

23 Section 14. "Sold within this state" -- "sales of the
 24 business within this state" -- defined. "Sold within this
 25 state" or "sales of the business within this state" as used

1 in this act shall mean all sales of retailers engaged in
2 business within this state and all sales of products for use
3 or consumption within this state in the case of
4 manufacturers and wholesalers.

5 Section 15. Litter assessment -- exemptions. The
6 litter assessment provided for in this act shall not be
7 applied to the value of products or gross proceeds of the
8 sales of any animal, bird or insect or the milk, eggs, wool,
9 fur, meat, honey, or other substance obtained from them, if
10 the person performs only the growing or raising function of
11 the animal, bird or insect. In all other instances, the
12 assessment shall be applied.

13 Section 16. Litter control account -- creation --
14 composition. There is hereby created an earmarked revenue
15 account within the general fund to be known as the litter
16 control account. All assessments, fines, bail forfeitures,
17 and other funds collected or received under this act shall
18 be deposited in the litter control account and used for the
19 administration and implementation of this act.

20 Section 17. Litter control account -- distribution of
21 funds -- authorization. The department shall allocate
22 funds annually for the study of available research and
23 development in the field of litter control, removal, and
24 disposal, as well as study methods for implementation in
25 this state of this research and development. In addition,

1 the fund may be used for the development of public
2 educational programs concerning the litter problem. Grants
3 shall be made available for these purposes to those persons
4 determined appropriate and qualified by the director.

5 Section 18. Administration of anti-litter program --
6 guidelines. In addition to its other duties, the department
7 shall: (1) Serve as the coordinating agency between the
8 various industry organizations seeking to aid in the
9 anti-litter effort;

10 (2) Recommend to the governing bodies of all local
11 governments that they adopt ordinances similar to the
12 provisions of this act;

13 (3) Cooperate with all local governments to accomplish
14 coordination of local anti-litter efforts;

15 (4) Encourage, organize, and coordinate all voluntary
16 local anti-litter campaigns seeking to focus the attention
17 of the public on the programs of this state to control and
18 remove litter;

19 (5) Investigate the availability of, and apply for
20 funds available from any private or public source to be used
21 in the program outlined in this act.

22 Section 19. Anti-litter campaign -- industrial
23 cooperation requested. To aid in the statewide anti-litter
24 campaign, the state legislature requests that the various
25 industry organizations which are active in anti-litter

1 efforts provide active cooperation with the department so
2 that additional effect may be given to the anti-litter
3 campaign of the state of Montana.

4 Section 20. Violations of act -- penalties. Every
5 person convicted of a violation of this act for which no
6 penalty is especially provided shall be punished by a fine
7 of not more than ten dollars (\$10) for each such violation.

8 Section 21. Severability. If a part of this act is
9 invalid, all valid parts that are severable from the invalid
10 part remain in effect. If a part of this act is invalid in
11 one or more of its applications, the part remains in effect
12 in all valid applications that are severable from the
13 invalid applications.

14 Section 22. Sections 94-3335 through 94-3344, R.C.M.
15 1947, are repealed.

16 Section 23. Effective date. This act is effective on
17 its passage and approval.

-End-