45th Legislature LC 0014/01

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1 HOUSE BILL NO. 18 2 INTRODUCED BY MARKS 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A UNIPORM COLLECTION PROCEDURE FOR THE LICENSE TAXES ON EXPRESS 5 COMPANIES, FREIGHT LINE COMPANIES, SLEEPING CAR COMPANIES, TELEGRAPH COMPANIES, AND TELEPHONE COMPANIES: AMENDING 7 SECTION 84-4821: AND REPEALING SECTIONS 84-1704, 84-1705, 84-1706, 84-1708, 84-2307, 84-2308, 84-2309, 84-2504, 9 84-2506, 84-2507, 84-2508, 84-2604, 84-2606, 84-2607, 10 84-2608, 84-4823, 84-4825, ND 84-4826, R.C.M. 1947." 11 12 13 BE IT REACTED BY THE LEGISLATURE OF THE STATE OF HOWTANA: Section 1. Estimation of tax upon failure to file 14 return. If any person subject to a license tax under Title 15 16 84, chapters 17, 23, 25, 26, or 48, R.C.H. 1947, fails to file a statement required in connection with that tax or 17 fails to pay the tax within the time provided by law, the 18 department shall proceed to investigate and inform itself as 19 best it may regarding the matters required by the statement 20 and to fix the amount of license tax due from the person. 21 The department's estimate of the tax due is subject to a 22

hearing under 84-711 and a subsequent revision if warranted

by the evidence, but the person objecting to the estimate

bears the burden of proving the estimate incorrect.

Section 2. Penalty for delinquency — notice —
waiver. (1) Any license tax imposed under Title 84, chapters
17, 23, 25, 26, or 48, R.C.H. 1947, is delinquent if not
paid when due. The department shall assess a penalty equal
to 10% of the amount delinquent, and the whole thereof shall
bear interest at the rate of 1% per month from the date of
delinquency until paid.

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(2) The department shall mail to the delinquent taxpayer a letter setting forth the amount of tax, penalty, and interest due, and the letter shall further advise that if payment is not received within 15 days of receipt of the letter, a lien may be filed under [section 3 of this act]. The department may waive the 10% penalty if the person responsible demonstrates reasonable cause for the failure to remit the tax or report within the time provided.

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Section 3. Lien for collection of tax. All tax, penalty, and interest due from any person under Title 84, chapters 17, 23, 25, 26, or 48, R.C.M. 1947, shall be a lien upon any real property of the person owing such tax when the department files a certified copy of the letter sent under [section 2 of this act] in the office of the clerk and recorder of the county where such property is situated. This lien has precedence over any other claim, lien, or demand subsequently filed and recorded and may be enforced in the name of the state of Montana as judgment liens are

LC 0014/01

84-1705,

84-2607,

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enforced.

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2 Section 4. Section 84-4821, R.C.M. 1947, is amended to

3 read as follows:

"84-4821. Notice of incorrectness or insufficiency --5 presedure-upon failure to file report Computation of tax. 6 Upon the filing of the reports herein provided for, the 7 department shall compute and determine the amount of the 8 tax, and, on or before May 4st 1, notify such railroad 9 company and freight line company if such report or payment 10 of tax be incorrect or insufficient, and such railroad company shall be liable for any additional tax found to be 11 12 owing the state of Sontana. If no report be filed as berein 13 required, the department shall, on or before tay 1st, 14 accertain -- from -- whatever courses to -which -it -has -access the 15 gress carrings of each freight-line company within this 16 state from the use or operation of such care by such 17 railroad company; or if the gross caraings are not capable 18 of boing assortaised, the department may estimate the gross 19 carnings of such freight line company within this state from 20 such railroad company and the railroad company which failed 21 to make the report or pay the tax shall be liable for the 22 same-together-with penalties as hereinafter provided."

repealed.

-End-

84-2608, 84-4823, 84-4825, and 84-4826, R.C.M. 1947, are

84-1706, 84-1708, 84-2307, 84-2308, 84-2309, 84-2504,

Section 5. Repealer. Sections 84-1704,

84-2506, 84-2507, 84-2508, 84-2604, 84-2606,

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LC0014

1977 Legislature Code Commissioner Bill - Summary

House Bill No. 18

TO PROVIDE A UNIFORM COLLECTION PROCEDURE FOR LICENSE TAXES ON EXPRESS COMPANIES, FREIGHT LINE COMPANIES, SLEEPING CAR COMPANIES, TELEGRAPH COMPANIES, AND TELEPHONE COMPANIES.

(This summary does not include discussion of routine form or grammatical changes.)

The license taxes which the state imposes on railroads, telephone, telegraph, and express companies are quite similar to one another in administrative provisions. Only the rates, definitions, and reporting periods differ; the sanctions for delinquency and lien provisions are virtually identical.

Of the nineteen sections listed for repeal in the bill, eleven would be replaced by new sections 1, 2 or 3 enacted by the bill. The other eight are redundant with other sections in the code. The breakdown is as follows:

84-1704. Procedure in case of failure to make statement. Replaced by Section 1.

84-1705. Penalty for failure to make statement--duty of attorney general to institute action. Replaced by Section 2 and redundant with 84-708.1(6).

84-1706. State department of revenue authorized to require production of books. Redundant with Section 84-708.1(11).

84-1708. Collection of license fee by suit on failure of company to pay. Redundant with 84-708.1(6).

84-2307. Failure to report--nonpayment--action for collection. Replaced by Section 1.

84-2308. Estoppel--failure to file report. Replaced by Section 1.

- 84-2309. First imposition of tax. Temporary, applied only to 1923 tax.
 - 84-2504. Penalty for delinquency. Replaced by Section 2.
- 84-2506. Penalty for failure to file statement and for false statements. Replaced by Section 2.
- 84-2507. Department to determine tax in case no statement filed-penalty and interest-collection of tax-perfection and enforcement of tax lien. Replaced by Sections 1, 2, 3.
- 84-2508. Books and records to be open to inspection by department. Redundant with 84-708.1(11).
 - 84-2605. Taxpayer to keep records. Redundant with 84-2603.
 - 84-2606. Penalties. Replaced by Section 2.
- 84-2607. Department to levy tax on failure of taxpayer to make statement. Replaced by Section 1.
 - 84-4821. (last sentence). Replaced by Section 1.
- 84-4823. Penalty for nonpayment by railroad company. Replaced by Section 2.
- 84-4825. Disposition of moneys--limitation of actions. Redundant with 84-4502.
- 84-4826. Failure to file report--estoppel to impeach department of revenue's determination. Replaced by Section 3.

Amproved by Committee on Taxation

1 HOUSE BILL NO. 18 INTRODUCED BY MARKS... 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A UNIFORM COLLECTION PROCEDURE FOR THE LICENSE TAXES ON EXPRESS COMPANIES, FREIGHT LINE COMPANIES, SLEEPING CAR COMPANIES. TELEGRAPH COMPANIES, AND TELEPHONE COMPANIES: AMENDING SECTION 84-4821: AND REPEALING SECTIONS 84-1704, 84-1705, 9 84-1706, 84-1708, 84-2307, 84-2308, 84-2309, 84-2504, 10 84-2506, 84-2507, 84-2508, 84-2604, 84-2606, 84-2607, 11 84-2608, 84-4823, 84-4825, AND 84-4826, R.C.B. 1947." 12 13 BE IT ENACTED BY THE LEGYSLATURE OF THE STATE OF MONTANA: 14 Section 1. Estimation of tax upon failure to file 15 return. If any person subject to a license tax under Title 16 84. Chapters 17, 23, 25, 26, or 48, R.C. M. 1947, fails to file a statement required in connection with that tax or 17 fails to pay the tax within the time provided by law, the 18 19 department shall proceed to investigate and inform itself as best it may regarding the matters required by the statement 20 and to fix the amount of license tax due from the person. 21 22 The department's estimate of the tax due is subject to a hearing under 84-711 and a subsequent revision if warranted 23 24 by the evidence, but the person objecting to the estimate bears the burden of proving the estimate incorrect. 25

There are no changes in #13 12, & will not be re-run.

Please refer to white copy for complete text. SECOND READING

Section 2. Penalty for delinquency — notice —
waiver. (1) Any license tax imposed under Title 84, chapters
17, 23, 25, 26, or 48, R.C. 8. 1947, is delinquent if not
paid when due. The department shall assess a penalty equal
to 10% of the amount delinquent, and the whole thereof shall
bear interest at the rate of 1% per month from the date of
delinquency until paid.

- 8 (2) The department shall mail to the delinquent
 9 tampayer a letter setting forth the amount of tam, penalty,
 10 and interest due, and the letter shall further advise that
 11 if payment is not received within 15 days of receipt of the
 12 letter, a lien may be filed under [section 3 of this act].
 13 The department may waive the 10% penalty if the person
 14 responsible demonstrates reasonable cause for the failure to
 15 remit the tam or report within the time provided.
- 16 Section 3. Lien for collection of tax. All tax, 17 penalty, and interest due from any person under Title 84. 18 chapters 17, 23, 25, 26, or 48, R.C.M. 1947, shall be a lien 19 upon any real property of the person owing such tax when the 20 department files a certified copy of the letter sent under 21 (section 2 of this act) in the office of the clerk and 22 recorder of the county where such property is situated. This lien has precedence over any other claim, lien, or 23 24 demand subsequently filed and recorded and may be enforced in the name of the state of Montana as judgment liens are

84-1705.

84-2607,

1 enforced.

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Section 4. Section 84-4821, R.C.M. 1947, is amended to

3 read as follows:

"84-4821. Wotice-of-inserrectnoss-or insufficiency---5 presedure upon failure to file report Computation of tax. 6 Upon the filing of the reports herein provided for, the 7 department shall compute and determine the amount of the tax, and, on or before May 4st 1, notify such railroad 8 company and freight line company if such report or payment of tax be incorrect or insufficient, and such railroad 10 11 company shall be liable for any additional tax found to be 12 owing the state of Montana. If no report be filed as berein 13 required, the department shall, on or before day 1st, 14 assertain -- from -- whatever-sources to -- which -it -- has assess -- the 15 gross-carnings of cuch froight line company within this 16 state-from the use or operation of such cars by such 17 railroad gospany, or if the groce earnings are not -capable of - boing assertained, the department may estimate the gress 18 19 carnings of ough freight line company within this state from such railroad company and the railroad company which failed 20 21 to make the report or pay the tax shall be liable for the 22 game-toqothor with pomaltios as hereinafter provided."

- 1 84-2608, 84-4823, 84-4825, and 84-4826, R.C.M. 1947, are
- repealed.

-End-

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84-1706, 84-1708, 84-2307, 84-2308, 84-2309, 84-2504,

Section 5. Repealer. Sections 84-1704,

84-2506, 84-2507, 84-2508, 84-2604, 84-2606,

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1	HOUSE BILL NO. 18
2	INTRODUCED BY MARKS
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π	A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A UNIFORM
5	COLLECTION PROCEDURE FOR THE LICENSE TAXES OF EXPRESS
6	COMPANIES, PREIGHT LINE COMPANIES, SLEEPING CAR COMPANIES,
7	TELEGRAPE COMPANIES, AND TELEPHONE COMPANIES; EMEMDING
8	SECTION 84-4821; AND REPEALING SECTIONS 84-1704, 84-1705,
9	84-1706, 84-1708, 84-2307, 84-2308, 84-2309, 84-2504,
10	84-2506, 84-2507, 84-2508, 84-2604, 84-2606, 84-2607,
11	84-2608, 84-4823, 84-4825, 1#D 84-4826, R.C.H. 1947."
12	
13	BE IT BRACTED BY THE LEGISLATURE OF THE STATE OF HONTAWA:
14	Section 1. Estimation of tax upon failure to file
15	return. If any person subject to a license tay under Title
16	84, chapters 17, 23, 25, 26, or 48, R.C.E. 1947, fails to
17	file a statement required in connection with that tax or
18	fails to pay the tax within the time provided by law, the
19	department shall proceed to investigate and inform itself as
20	best it may regarding the matters required by the statcment
21	and to fix the amount of license tax due from the person.
22	The department's estimate of the tax due is subject to a
23	hearing under 84-711 and a subsequent revision if warranted
24	by the ewidence, but the person objecting to the estimate
25	bears the burden of proving the estimate incorrect.

Section 2. Penalty for delinquency — notice —
waiver. (1) Any license tar imposed under Title 84, chapters
17, 23, 25, 26, or 48, E.C.E. 1987, is delinquent if not
paid when due. The department shell assess a penalty equal
to 16% of the assent delinquent, and the whole thereof shall
bear interest at the rate of 1% per month from the date of
delinquency entil raid.

8 (2) The department shall mail to the delinquent
9 tampayer a letter setting forth the amount of tam, penalty,
10 and interest due, and the letter shall further advise that
11 if payment is not received within 15 days of receipt of the
12 letter, a lien may be filed under [section 3 of this act].
13 The department may waive the 10% penalty if the person
14 responsible demonstrates reasonable cause for the failure to
15 remit the tax or report within the time provided.

Section 3. Lies for collection of ter. Ill tar, 16 17 penalty, and interest dur from any person ender Title 84, chapters 17, 23, 25, 26, or 48, E.C.M. 1947, shall be a lien 16 19 upon any real property of the person owing such tax then the 20 department files a certified copy of the letter sent under 21 [section 2 of this act] in the office of the clock and 22 recorder of the county there such property is situated. 23 This lier has precedence ever any other claim, lien, or 24 demand subsequently filed and recorded and may be enjorced in the wave of the state of Bontawa as judgment liens are

84-1705.

enforced.

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Section 4. Section 84-4821, R.C.B. 1947, is amended to
read as follows:

"84-4821. Wotice-of-incorrectness-or-insufficiency--procedure-upon failure to file papert Computation of tax. 5 Upon the filing of the reports herein provided for, the 7 department shall compute and determine the amount of the 8 tar, and, on or before May 4st 1, notify such railroad 9 company and freight line company if such report or payment 10 of tax be incorrect or insufficient, and such railroad 11 company shall be liable for any additional tax found to be 12 owing the state of Sontana. If as report be filed as herein 13 required, the desertment shall, or or before for lat, 14 ascertain-from-whateves courses to which it has access the 15 gross carnings of each freight line company within this 16 state-from the use or operation of such cars by such 17 railroad company, or if the gross carnings are - not capable 18 of -- boing aggortained, the department may estimate the gross 19 carrings of such freight lise company within this state from such reilroad company and the reilroad company which failed 20 to make the report or pay the tax shall be liable for the 21 22 same together with penalties as hereinafter provided."

- 1 84-2608, 84-4823, 84-4825, and 84-4826, R.C.B. 1947, are
- 2 repealed.

-End-

84-1706, 84-1708, 84-2307, 84-2308, 84-2309, 84-2504,

84-2506, 84-2507, 84-2508, 84-2604, 84-2606, 84-2607,

Section 5. Repealer. Sections 84-1704,

45th Legislature HB 0018/02 HB 0018/02

1 HOUSE BILL NO. 18
2 INTRODUCED BY MARKS

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A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A UNIFORM COLLECTION PROCEDURE FOR THE LICENSE TAXES ON EXPRESS COMPANIES, FREIGHT LINE COMPANIES, SLEEPING CAR COMPANIES, TELEGRAPH COMPANIES, AND TELEPHONE COMPANIES; AMENDING SECTION 84-4821; AND REPEALING SECTIONS 84-1704, 84-1705, 84-1706, 84-1708, 84-2307, 84-2308, 84-2309, 84-2504, 84-2506, 84-2507, 84-2508, 84-2604, 84-2606, 84-2607, 84-2608, 84-4823, 84-4825, AND 84-4826, R-C-M-1947-"

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

Section 1. Estimation of tax upon failure to file return. If any person subject to a license tax under Title 84, chapters 17, 23, 25, 26, or 48, R.C.M. 1947, fails to file a statement required in connection with that tax or fails to pay the tax within the time provided by law, the department shall proceed to investigate and inform itself as best it may regarding the matters required by the statement and to fix the amount of license tax due from the person. The department's estimate of the tax due is subject to a hearing under 84-711 and a subsequent revision if warranted by the evidence, but the person objecting to the estimate bears the burden of proving the estimate incorrect.

Section 2. Penalty for delinquency -- notice -
waiver. (1) Any license tax imposed under Title 84, chapters

17, 23, 25, 26, or 48, R.C.M. 1947, is delinquent if not

paid when due. The department shall assess a penalty equal

to 10% of the amount delinquent, and the whole thereof shall

bear interest at the rate of 1% per month from the date of

delinquency until paid.

8 {2} The department shall mail to the delinquent
9 taxpayer a letter setting forth the amount of tax, penalty,
10 and interest due, and the letter shall further advise that
11 if payment is not received within 15 days of receipt of the
12 letter, a lien may be filed under [section 3 of this act].
13 The department may waive the 10% penalty if the person
14 responsible demonstrates reasonable cause for the failure to
15 remit the tax or report within the time provided.

16 Section 3. Lien for collection of tax. All tax. 17 penalty, and interest due from any person under Title 84, 18 chapters 17, 23, 25, 26, or 48, R.C.N. 1947, shall be a lien 19 upon any real property of the person owing such tax when the 20 department files a certified copy of the letter sent under 21 [section 2 of this act] in the office of the clerk and recorder of the county where such property is situated. 22 23 Inis lien has precedence over any other claim, lien, or 24 demand subsequently filed and recorded and may be enforced 25 in the name of the state of Montana as judgment liens are HB 0018/02

HB 0018/02

1 enforced.

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2 Section 4. Section 84-4821, R.C.M. 1947, is amended to 3 read as follows:

*84-4821. Notice--of-incorrectness-or-insufficiency--procedure-upon-failure-to-file-report Computation of tax. Upon the filing of the reports herein provided for, the department shall compute and determine the amount of the taxy ands on or before May 1st 1, notify such railroad company and freight line company if such report or payment of tax be incorrect or insufficient, and such railroad company shall be liable for any additional tax found to be owing the state of Montana. If no report-be-filed as herein requiredy-the--department--shally--on--or--before--May--1sty ascertain--from--whatever-sources-to-which-it-has-access-the gross-earnings-of-such--freight--line--company--within--this state--from--the--use--or--operation--of--such--cors-by-such railroad-company;-or-if-the-gross-earnings-are--not--capable of--being-ascertainedy-the-department-may-estimate-the-gross earnings-of-such-freight-line-company-within-this-state-from such-railroad-company-and-the-railroad-company-which--failed to--make--the--report-or-pay-the-tax-shall-be-liable-for-the same-rogether-with-penalties-as-hereinafter-provided**

23 Section 5. Repealer. Sections 84-1704, 84-1705, 24 84-1706, 84-1708, 84-2307, 84-2308, 84-2309, 84-2504, 25 84-2506, 84-2507, 84-2508, 84-2604, 84-2606, 84-2607, 1 84-2600, 84-4823, 84-4825, and 84-4826, R.C.M. 1947, are

2 repealed.

-End-