

H BILL NO. 306

INTRODUCED BY

Kenler Crossen Holmes Palm
Thompson Roger Waldron
Corwin

A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPOSE AN ADDITIONAL EXCISE TAX ON CIGARETTES OF 5 CENTS A PACKAGE AND TO EARMARK THE REVENUE OBTAINED FROM SUCH TAX FOR THE USE OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO FUND SUCH DUTIES AS THE 45TH LEGISLATURE MAY IMPOSE ON IT; AMENDING SECTION 84-5606, R.C.M. 1947."

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

Section 1. Section 34-5606, R.C.M. 1947, is amended to read as follows:

"84-5606. The tax. (1) All taxes paid pursuant to the provisions of this section shall be conclusively presumed to be direct taxes on the retail consumer precollected for the purpose of convenience and facility only. When the tax is paid by any other person, such payment shall be considered as an advance payment and shall be added to the price of the cigarettes and recovered from the ultimate consumer or user. Any person selling cigarettes at retail shall state or separately display in the licensed premises a notice of the tax included in the selling price and charged or payable pursuant to this section. The provisions of this ~~subsection~~ subsection shall in no way affect the method of collection

of such tax as provided by this section.

(2) From and after the effective date of this amendatory law, there is hereby levied, imposed, and assessed, and there shall be collected and paid to the state of Montana, upon cigarettes sold or possessed in this state, the following excise tax which shall be paid prior to the time of sale and delivery thereof, to wit: ~~Nine 9~~ nine 2 cents ~~{9¢}~~ on each package containing not more than ~~twenty--{20}~~ twenty--{20} cigarettes, and when packages shall contain more than ~~twenty--{20}~~ twenty--{20} cigarettes, then ~~nine 9~~ nine 2 cents ~~{9¢}~~ on each ~~twenty--{20}~~ twenty--{20} or fraction of ~~twenty--{20}~~ twenty--{20} cigarettes contained in such package.

(3) From and after the effective date of this amendatory law, there is hereby levied, imposed, and assessed, and there shall be collected and paid to the state of Montana, upon cigarettes sold or possessed in this state, the following excise tax, in addition to the excise tax on cigarettes levied, imposed, and assessed by ~~subsection~~ subdivision (2) of this section ~~84-5606~~, an additional tax which shall be paid prior to the time of sale and delivery of such cigarettes, to wit: ~~two 2~~ two 2 cents ~~{2¢}~~ on each package containing not more than ~~twenty--{20}~~ twenty--{20} cigarettes, and when packages shall contain more than ~~twenty--{20}~~ twenty--{20} cigarettes, then ~~two 2~~ two 2 cents ~~{2¢}~~ on each ~~twenty--{20}~~ twenty--{20} or fraction of ~~twenty--{20}~~ twenty--{20} cigarettes contained in such

1 package; which additional tax shall continue in force until
 2 the payment and retirement of all bonds of the state of
 3 Montana, and the payment of interest thereon, issued under
 4 the authority of said Initiative No. 54~~2~~ as amended, for the
 5 purpose of paying an honorarium to the residents of Montana
 6 who were in military service in the military forces of the
 7 United States in World War II, the Korean War, or
 8 World War I~~7~~ and until the payment and retirement of all
 9 long-range building program bonds issued under the
 10 provisions of Title 79, chapter 22~~7~~-of-the-Revised-Codes-of
 11 Montana~~7~~-1947.

12 (4) From and after the effective date of this
 13 amendatory act of the thirty-eighth legislative assembly of
 14 the state of Montana, there is hereby levied, imposed~~2~~ and
 15 assessed~~7~~, and there shall be collected and paid to the state
 16 of Montana, upon cigarettes sold or possessed in this state,
 17 the following excise tax, in addition to the excise tax on
 18 cigarettes, levied, imposed~~2~~ and assessed by ~~subdivisions~~
 19 subsections (2) and (3) of this section ~~84-5606~~, an
 20 additional tax which shall be paid prior to the time of sale
 21 and delivery of such cigarettes, to wit: One ~~1 cent~~ ~~{1¢}~~ on
 22 each package containing not more than ~~twenty--{20}~~
 23 cigarettes, and~~2~~ when packages shall contain more than
 24 ~~twenty--{20}~~ cigarettes, then one ~~1 cent~~ ~~{1¢}~~ on each ~~twenty~~
 25 ~~{20}~~ or fraction of ~~twenty--{20}~~ cigarettes contained in such

1 package; which additional tax shall continue in force until
 2 the payment and retirement of the additional bonds of the
 3 state of Montana authorized by amendatory acts of the
 4 thirty-fifth and thirty-eighth legislative assemblies, and
 5 the payment of the interest thereon and until the payment
 6 and retirement of all long-range building program bonds
 7 issued under the provisions of Title 79, chapter 22~~7~~-of--the
 8 Revised-Codes-of-Montana~~7~~-1947.

9 {5} As of the effective date of this amendatory act of
 10 the 45th legislature, there is levied, imposed, and assessed
 11 and there shall be collected and paid to the state of
 12 Montana, upon cigarettes sold or possessed in this state,
 13 the following excise tax, in addition to the excise tax on
 14 cigarettes provided for in subsections (2), (3), and (4) of
 15 this section, which shall be paid prior to the time of sale
 16 and delivery of the cigarettes: 5 cents on each package
 17 containing not more than 20 cigarettes and, when a package
 18 contains more than 20 cigarettes, 5 cents on each 20 or
 19 fraction of 20 cigarettes contained in the package. The
 20 revenue obtained from the additional tax shall be deposited
 21 in the earmarked revenue fund for the use of the department
 22 of health and environmental sciences to fund such duties as
 23 may be imposed on it by the 45th legislature of this state.

24 {5}{6} Within seventy-two {72} hours after receipt by
 25 the distributor or dealer of any such cigarettes, except as

1 hereinafter provided, he shall cause to be securely affixed
2 thereto the required insignia denoting the tax thereon.
3 Said insignia shall be properly canceled prior to sale or
4 removal for consumption under such regulations as the board
5 may prescribe. Each package shall have the required insignia
6 to affix thereto in such a manner that the insignia will be
7 destroyed when the package is opened. Every person who shall
8 make, alter, forge, or counterfeit any license stamp or
9 insignia provided for in this law, or who shall assist or be
10 concerned therein, or who shall have in his possession any
11 altered, forged, counterfeit, or spurious stamp, license, or
12 insignia, with intent to defraud the state, is guilty of
13 forgery and shall be punished by imprisonment in the state
14 prison for not less than ~~one~~ {1} year or more than ~~fourteen~~
15 {14} years."

-End-

STATE OF MONTANA

REQUEST NO. 152-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 24, 19 77, there is hereby submitted a Fiscal Note for House Bill 306 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to impose an additional excise tax on cigarettes of five (5) cents a package and to earmark the revenue obtained from such tax for the use of the Department of Health and Environmental Sciences to fund such duties as the legislature may impose.

ASSUMPTIONS:

1. The number of packages of cigarettes sold in FY 78 will be 95,230,000 and in FY 79 97,136,000 packages.
2. Administrative costs will not increase.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>	<u>TOTAL</u>
Increased revenue due to proposed legislation	<u>\$4,800,000</u>	<u>\$5,000,000</u>	<u>\$9,800,000</u>

Richard L. Drury for

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-28-77