

1 H BILL NO. 309
 2 INTRODUCED BY Sauter Hulwitz FRAG Wdy

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT PROTEST
 5 OF ANY TAX OR LICENSE SHALL BE MADE ONLY ON THOSE PORTIONS
 6 OF THE TAX OR LICENSE THAT ARE DEEMED UNLAWFUL; ONLY THAT
 7 PORTION OF THE TAX OR LICENSE DEEMED UNLAWFUL SHALL BE
 8 DEPOSITED IN THE PROTEST FUND; AMENDING SECTION 84-4502,
 9 R.C.M. 1947."

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

12 Section 1. Section 84-4502, R.C.M. 1947, is amended to
 13 read as follows:

14 "84-4502. Payment of taxes under protest -- action to
 15 recover. (1) In all cases of levy of taxes, licenses or
 16 other demands for public revenue which are deemed unlawful
 17 by the party whose property is thus taxed, or from whom such
 18 tax or license is demanded or enforced, such party may
 19 before such tax or license becomes delinquent pay under
 20 written protest such portions of such tax or license ~~or any~~
 21 ~~part thereof~~ deemed unlawful, to the officers designated
 22 and authorized to collect the same, specifying the grounds
 23 of protest; and thereupon the party so paying, or his legal
 24 representatives, may bring an action in any court of
 25 competent jurisdiction against the officers to whom said

1 license or tax was paid, or against the county or
 2 municipality in whose behalf the same was collected, and the
 3 state department of revenue, which shall be served with
 4 summons and copy of the complaint, to recover such portions
 5 of such tax or license ~~or any portion thereof~~, paid under
 6 protest; provided, that any action instituted to recover any
 7 such portions of license or tax paid under protest shall be
 8 commenced and summons served within sixty (60) days after
 9 the date of payment of the same; provided further, that when
 10 any such license or tax is payable in installments the first
 11 ~~installment or so much thereof~~ portion of such tax or
 12 license as may be deemed unlawful, may be so paid under
 13 written protest and suit commenced and summons served to
 14 recover the same within the time herein prescribed, and if
 15 any subsequent installment of such license or tax shall
 16 become due or payable before the final determination of the
 17 suit commenced to recover the first installment ~~or portion~~
 18 ~~thereof~~ ~~so~~ paid under protest, then such subsequent
 19 ~~installment or portion thereof~~ deemed unlawful, may also be
 20 paid under written protest, and no suit or action need be
 21 commenced to recover the same, but the determination of the
 22 suit or action commenced to recover the first installment
 23 ~~or portion thereof~~, paid under protest, shall determine the
 24 right of the party paying such subsequent installment to
 25 have the same, or any part thereof refunded to him. All such

1 portions of licenses and taxes, when so paid under protest,
 2 shall be deposited by the treasurer of the county or
 3 municipality to the credit of a special fund to be
 4 designated as protest fund, and no part thereof shall be
 5 paid over to any officer, or placed in any other fund or
 6 used for any purpose whatever, but the whole thereof shall
 7 be retained in such protest fund until the final
 8 determination of any suit or action to recover the same.

9 (2) If no action is commenced within the time herein
 10 specified, or if such action be commenced and finally
 11 determined in favor of the county or municipality, or
 12 treasurer thereof, the amount of such protested portions of
 13 the license or tax shall be taken from such protest fund and
 14 deposited to the credit of the fund or funds to which the
 15 same property belongs, but if such action is finally
 16 determined adversely to such county or municipality, or the
 17 treasurer thereof, then the treasurer shall, upon receiving
 18 a certified copy of the final judgment in said action,
 19 refund the amount of such protested portions of the license
 20 or tax, with costs of suit without interest, to the person
 21 in whose favor such judgment is rendered; provided, that if
 22 such action was commenced for the purpose of recovering the
 23 first installment--~~or any portion~~ portions thereof, of any
 24 such license or tax, and any subsequent installment thereof,
 25 has been paid under protest, as herein provided, then the

1 county treasurer shall, at the time of refunding the amount
 2 of such first installment required by such judgment also
 3 refund such portion of any subsequent installment as the
 4 person holding such judgment is entitled to recover, without
 5 interest."

-End-

Approved by Committee
on Taxation

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24 representatives, may bring an action in any court of
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-End-

March 22, 1977

STANDING COMMITTEE REPORT
Senate Committee on Public Health, Welfare & Safety

That House Bill No. 318 be amended as follows:

1. Amend page 4, section 4, line 10.

Following: "qualifications."

Insert: "The application shall be designated by a number instead of the applicant's name, so that the identity will not be discovered or disclosed until after the examination papers are graded."

HOUSE BILL NO. 309

INTRODUCED BY SOUTH, HURWITZ, FAGG, UHDE

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license or tax was paid, or against the county or municipality in whose behalf the same was collected, and the state department of revenue, which shall be served with summons and copy of the complaint, to recover such portions of such tax or license, ~~or any portion thereof~~, paid under protest; provided, that any action instituted to recover any such portions of license or tax paid under protest shall be commenced and summons served within sixty (60) days after the date of payment of the same; provided further, that when any such license or tax is payable in installments the first installment, ~~or so much thereof~~ portion of such tax or license as may be deemed unlawful, may be so paid under written protest and suit commenced and summons served to recover the same within the time herein prescribed, and if any subsequent installment of such license or tax shall become due or payable before the final determination of the suit commenced to recover the first installment, ~~or portion thereof~~, ~~so~~ paid under protest, then such subsequent installment, ~~or portion thereof~~ deemed unlawful, may also be paid under written protest, and no suit or action need be commenced to recover the same, but the determination of the suit or action commenced to recover the first installment ~~or portion thereof~~, paid under protest, shall determine the right of the party paying such subsequent installment to have the same, or any part thereof refunded to him. All such

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