

HOUSE BILL NO. 642
INTRODUCED BY STRIZICH, GAGE

IN THE HOUSE

FEBRUARY 10, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 11, 1989	FIRST READING.
FEBRUARY 16, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 17, 1989	PRINTING REPORT.
FEBRUARY 18, 1989	SECOND READING, DO PASS.
FEBRUARY 21, 1989	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 94; NOES, 4.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
MARCH 17, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 20, 1989	SECOND READING, CONCURRED IN.
MARCH 22, 1989	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 22, 1989	RECEIVED FROM SENATE.
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SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 642
2 INTRODUCED BY SEN. [Signature]
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DANGEROUS
5 DRUG TAX ACT; ESTABLISHING A MINIMUM TAX; ALLOWING THE TAX
6 TO BE COLLECTED BEFORE FINES AND FORFEITURES; SUSPENDING THE
7 LIEN ENFORCEMENT PERIOD DURING A PERIOD OF INCARCERATION OF
8 THE PERSON TAXED; REVISING THE DISPOSITION OF TAX PROCEEDS;
9 AND AMENDING SECTIONS 15-25-111, 15-25-115, 15-25-121, AND
10 15-25-122, MCA."

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

13 **Section 1.** Section 15-25-111, MCA, is amended to read:

14 "15-25-111. Tax on dangerous drugs. (1) There is a tax
15 on the possession and storage of dangerous drugs. Except as
16 provided in 15-25-112, each person possessing or storing
17 dangerous drugs is liable for the tax. The tax imposed is
18 determined pursuant to subsection (2). The tax is due and
19 payable on the date of assessment. The department shall add
20 an administration fee of 5% of the tax imposed pursuant to
21 subsection (2) to offset costs incurred in assessing value,
22 in collecting the tax, and in any review and appeal process.

23 (2) The With the exception that the tax on possession
24 and storage of less than 1 ounce, 1 gram, or 100 micrograms
25 of dangerous drugs must be that set forth below for 1 ounce,

1 1 gram, or 100 micrograms, the tax on possession and storage
2 of dangerous drugs is the greater of:

3 (a) 10% of the assessed market value of the drugs, as
4 determined by the department; or

5 (b) (i) \$100 per ounce of marijuana, as defined in
6 50-32-101, or its derivatives, as determined by the
7 aggregate weight of the substance seized;

8 (ii) \$250 per ounce of hashish, as defined in 50-32-101,
9 as determined by the aggregate weight of the substance
10 seized;

11 (iii) \$200 per gram of any substance containing or
12 purported to contain any amount of a dangerous drug included
13 in Schedule I pursuant to 50-32-222(1), (2), (4), and (5),
14 or Schedule II pursuant to 50-32-224(1) through (4), as
15 determined by the aggregate weight of the substance seized;

16 (iv) \$10 per 100 micrograms of any substance containing
17 or purported to contain any amount of lysergic acid
18 diethylamide (LSD) included in Schedule I pursuant to
19 50-32-222(3), as determined by the aggregate weight of the
20 substance seized;

21 (v) \$100 per ounce of any substance containing or
22 purported to contain any amount of an immediate precursor as
23 defined under Schedule II pursuant to 50-32-224(5), as
24 determined by the aggregate weight of the substance seized;
25 and

(vi) \$100 per gram of any substance containing or purported to contain any amount of dangerous drug not otherwise provided for in this subsection (2).

(3) The tax imposed pursuant-to under this section must may be collected only--after before any state or federal fines or forfeitures have been satisfied."

Section 2. Section 15-25-115, MCA, is amended to read:

"15-25-115. **Warrant for distraint -- suspension of lien during incarceration.** If all or part of the tax imposed by this chapter is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien shall have precedence over any other claim, lien, or demand thereafter filed and recorded. The period during which the lien may be enforced is suspended during any period of incarceration of the person upon whom the tax is imposed."

Section 3. Section 15-25-121, MCA, is amended to read:

"15-25-121. **Accounts.** (1) There is an institutions evaluation special revenue account within the state treasury, for use by the department of family services. One-half One-third of the taxes collected under 15-25-122 shall be deposited in the account.

(2) There is a chemical abuse assessment special revenue account within the state treasury, for use by the department of justice. One-half One-third of the taxes

collected under 15-25-122 shall be deposited in the account."

Section 4. Section 15-25-122, MCA, is amended to read:

"15-25-122. **Disposition of proceeds.** (1) The department shall transfer all taxes collected pursuant to this chapter, less the administrative fee authorized in 15-25-111(1), to the state treasurer on a monthly basis.

(2) The state treasurer shall deposit one-half one-third of the tax to the credit of the department of institutions family services to be used for the youth evaluation program and chemical abuse aftercare programs.

(3) The treasurer shall credit the remaining one-half two-thirds of the tax proceeds as follows:

(a) 85% one-half to the department of justice to be used for grants to youth courts to fund chemical abuse assessments and the detention of juvenile offenders in facilities separate from adult jails; and

(b) 15% one-half to the special account created by 44-12-206(3) if a state government law enforcement assistance-account-created-in-44-13-101-for--the--activities described--in-44-13-103 agency seized the drugs. If a local government law enforcement agency seized the drugs, then that amount must be credited to the treasurer or finance officer of the local government, be deposited in its general fund, and be used to enforce drug laws."

LC 1527/01

1 NEW SECTION. **Section 5.** Extension of authority. Any
2 existing authority to make rules on the subject of the
3 provisions of [this act] is extended to the provisions of
4 [this act].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15


In compliance with a written request, there is hereby submitted a Fiscal Note for HB642, as introduced


DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the dangerous drug tax act; establishing a minimum tax; allowing the tax to be collected before fines and forfeitures; suspending the lien enforcement period during a period of incarceration of the person taxed; and revising the disposition of tax proceeds.

FISCAL IMPACT:

An estimate of the collections under this proposal is not available. In FY 88, \$46,768 was collected from assessments of \$2,229,867. Of the \$46,768 collected \$31,980 is tied up pending bankruptcy proceedings and \$11,760 is tied up pending resolution of fines and forfeitures. From July 1, 1988 through January 31, 1989, \$4849 was collected from assessments of \$4,861,090.

 DATE 2/17/89
RAY SHACKLEFORD, BUDGET DIRECTOR
Office of Budget and Program Planning

 DATE 2-20-89
BILL STRIZICH, PRIMARY SPONSOR

Fiscal Note for HB642, Introduced

HB 642

APPROVED BY COMMITTEE
ON JUDICIARY

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2 INTRODUCED BY [Signature]
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17 dangerous drugs is liable for the tax. The tax imposed is
18 determined pursuant to subsection (2). The tax is due and
19 payable on the date of assessment. The department shall add
20 an administration fee of 5% of the tax imposed pursuant to
21 subsection (2) to offset costs incurred in assessing value,
22 in collecting the tax, and in any review and appeal process.

23 (2) The With the exception that the tax on possession
24 and storage of less than 1 ounce, 1 gram, or 100 micrograms
25 of dangerous drugs must be that set forth below for 1 ounce,

1 1 gram, or 100 micrograms, the tax on possession and storage
2 of dangerous drugs is the greater of:

3 (a) 10% of the assessed market value of the drugs, as
4 determined by the department; or

5 (b) (i) \$100 per ounce of marijuana, as defined in
6 50-32-101, or its derivatives, as determined by the
7 aggregate weight of the substance seized;

8 (ii) \$250 per ounce of hashish, as defined in 50-32-101,
9 as determined by the aggregate weight of the substance
10 seized;

11 (iii) \$200 per gram of any substance containing or
12 purported to contain any amount of a dangerous drug included
13 in Schedule I pursuant to 50-32-222(1), (2), (4), and (5),
14 or Schedule II pursuant to 50-32-224(1) through (4), as
15 determined by the aggregate weight of the substance seized;

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17 or purported to contain any amount of lysergic acid
18 diethylamide (LSD) included in Schedule I pursuant to
19 50-32-222(3), as determined by the aggregate weight of the
20 substance seized;

21 (v) \$100 per ounce of any substance containing or
22 purported to contain any amount of an immediate precursor as
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24 determined by the aggregate weight of the substance seized;
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(3) The tax imposed ~~pursuant-to~~ under this section must ~~may~~ be collected ~~only--after~~ before any state or federal fines or forfeitures have been satisfied."

Section 2. Section 15-25-115, MCA, is amended to read:

"15-25-115. Warrant for distraint -- suspension of lien during incarceration. If all or part of the tax imposed by this chapter is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien shall have precedence over any other claim, lien, or demand thereafter filed and recorded. The period during which the lien may be enforced is suspended during any period of incarceration of the person upon whom the tax is imposed."

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"15-25-121. Accounts. (1) There is an ~~institutions~~ evaluation special revenue account within the state treasury, for use by the department of family services. ~~One-half~~ One-third of the taxes collected under 15-25-122 shall be deposited in the account.

(2) There is a chemical abuse assessment special revenue account within the state treasury, for use by the department of justice. ~~One-half~~ One-third of the taxes

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Section 4. Section 15-25-122, MCA, is amended to read:

"15-25-122. Disposition of proceeds. (1) The department shall transfer all taxes collected pursuant to this chapter, less the administrative fee authorized in 15-25-111(1), to the state treasurer on a monthly basis.

(2) The state treasurer shall deposit ~~one-half~~ one-third of the tax to the credit of the department of ~~institutions~~ family services to be used for the youth evaluation program and chemical abuse aftercare programs.

(3) The treasurer shall credit the remaining ~~one-half~~ two-thirds of the tax proceeds as follows:

(a) ~~85%~~ one-half to the department of justice to be used for grants to youth courts to fund chemical abuse assessments and the detention of juvenile offenders in facilities separate from adult jails; and

(b) ~~15%~~ one-half to the ~~special~~ account created by 44-12-206(3) if a state government law enforcement assistance-account-created-in-44-13-101-for--the--activities described--in-44-13-103 agency seized the drugs. If a local government law enforcement agency seized the drugs, then that amount must be credited to the treasurer or finance officer of the local government, be deposited in its general fund, and be used to enforce drug laws."

1 NEW SECTION. **Section 5.** Extension of authority. Any
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HB 0642/02

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