

HOUSE BILL 762

Introduced by Hansen, S., et al.

3/08	Introduced
3/09	Referred to Taxation
3/10	Fiscal Note Requested
3/15	Hearing
3/16	Fiscal Note Received
3/20	Tabled in Committee

1 *HOUSE* BILL NO. *762*  
 2 INTRODUCED BY *Blaine H. Hansen*  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING THE SERVICES  
 5 OF THE CHILDREN'S TRUST FUND PROGRAM; INCREASING FUNDING FOR  
 6 THE TRUST BY A TAX ON BEER AND TABLE WINE; AMENDING SECTIONS  
 7 15-30-155 THROUGH 15-30-157, 16-1-306, 16-1-409, 16-2-108,  
 8 AND 41-3-701 THROUGH 41-3-704, MCA; AND PROVIDING AN  
 9 EFFECTIVE DATE."

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

12 NEW SECTION. Section 1. Tax on beer in bottles and  
 13 cans. In addition to the taxes imposed by 16-1-406 and  
 14 16-1-408, there is a tax of 5 cents on each bottle and can  
 15 of beer sold in Montana by a wholesaler. The tax on bottles  
 16 and cans sold during a calendar month is due at the end of  
 17 that month. The department shall collect the tax and  
 18 deposit the tax proceeds in the account created in 41-3-702.

19 NEW SECTION. Section 2. Tax on table wine in bottles.  
 20 In addition to the taxes imposed by 16-1-411 and 16-2-301,  
 21 there is a tax of 5 cents on each bottle of table wine sold  
 22 in Montana by a table wine distributor, the department, or  
 23 an agent of the department. A table wine distributor shall  
 24 pay the tax in the manner provided in 16-1-411(2). The  
 25 department shall deposit the tax proceeds in the account

1 created in 41-3-702.

2 **Section 3.** Section 15-30-155, MCA, is amended to read:

3 "15-30-155. Voluntary checkoff for child abuse--and  
 4 neglect--prevention--program programs. (1) Each individual  
 5 taxpayer who is required to file an income tax return under  
 6 this chapter and who is entitled to a refund may contribute  
 7 to the child-abuse-and-neglect-prevention--program programs  
 8 provided for in 41-3-701, by marking the appropriate box on  
 9 his state income tax return.

10 (2) Each Montana state individual income tax return  
 11 form must contain a provision for indicating a contribution  
 12 to the child-abuse-and-neglect-prevention--program programs  
 13 in substantially the following form:

14 Child abuse--and--neglect--prevention--program health,  
 15 welfare, safety, and education programs. Check this box if  
 16 you wish to designate \$5 ..., \$10 ..., or more ... (indicate  
 17 amount) of your tax refund to help fund the child abuse-and  
 18 neglect-prevention--program health, welfare, safety, and  
 19 education programs in Montana. On a joint return, check the  
 20 corresponding box for your spouse if your spouse wishes to  
 21 contribute \$5 ..., \$10 ..., or more ... (indicate amount) of  
 22 the refund for the same purpose.

23 (3) Money received under this section must be deposited  
 24 in the children's trust fund account, created under  
 25 41-3-702, after the department of revenue has deducted the

1 amount necessary for the department to administer this  
2 section."

3 **Section 4.** Section 15-30-156, MCA, is amended to read:

4 "15-30-156. Deduction for contributions to child abuse  
5 and-neglect-prevention-program programs. A taxpayer filing  
6 an individual income tax return who does not elect to take  
7 the standard deduction provided for in 15-30-122 may, in  
8 computing net income, claim a deduction for the payment of a  
9 contribution to the ~~child--abuse--and--neglect-prevention~~  
10 program children's trust fund programs as follows:

11 (1) If the taxpayer paid a contribution in the taxable  
12 year for which the return is filed, he may deduct the amount  
13 of the contribution paid during that year, unless the amount  
14 was deducted as provided in subsection (2).

15 (2) If the taxpayer encloses a check or other order to  
16 pay money as a contribution with the timely filing of a tax  
17 return, in accordance with 15-30-144, he may elect to take a  
18 deduction for the amount of the contribution and apply the  
19 deduction in the taxable year for which he is filing the  
20 return."

21 **Section 5.** Section 15-30-157, MCA, is amended to read:

22 "15-30-157. Deposit of deductible contributions. (1)  
23 All money received under 15-30-156 must be deposited in the  
24 children's trust fund account established in 41-3-702.

25 (2) The department of revenue shall immediately forward

1 for deposit in the children's trust fund account all checks  
2 and other orders of payment made as contributions under  
3 15-30-156. The department may make no deductions for  
4 administrative expenses in the handling of such the direct  
5 ~~payments to-the-child-abuse-and-neglect-prevention-program."~~

6 **Section 6.** Section 16-1-306, MCA, is amended to read:

7 "16-1-306. Revenue to be paid to state treasurer.  
8 Except as provided in 16-1-404, 16-1-405, 16-1-408,  
9 16-1-410, and 16-1-411, and [sections 1 and 2], all fees,  
10 charges, taxes, and revenues collected by or under authority  
11 of the department shall be deposited with the state  
12 treasurer. He shall deposit the funds to the credit of the  
13 state general fund."

14 **Section 7.** Section 16-1-409, MCA, is amended to read:

15 "16-1-409. Failure to make beer tax returns --  
16 penalties. (1) If any brewer or wholesaler subject to the  
17 payment of the tax taxes provided for in 16-1-406, through  
18 16-1-408, and [section 1] shall fail, neglect, or refuse to  
19 make any return required by this code or shall fail to make  
20 payment of such any tax within the time ~~herein~~ provided, the  
21 department shall, ~~forthwith~~ after such the time for payment  
22 has expired, proceed to inform itself as best it may  
23 regarding the matters and things required to be set forth in  
24 such the return and, from such information as it may be able  
25 to obtain, to make a statement showing such the matters and

1 things and determine and fix the amount of such tax due the  
2 state from such the delinquent brewer or wholesaler.

3 (2) The department shall add to the amount of tax due a  
4 penalty of 5% thereof for the first failure, willful  
5 neglect, or refusal; 10% for the second; 15% for the third;  
6 and 25% for the fourth and each subsequent failure, neglect,  
7 or refusal; which ~~shall-be~~ is in addition to the 5% penalty  
8 provided for nonpayment of such tax within the time  
9 provided.

10 (3) ~~Said~~ The tax and the penalties ~~added-thereto~~ shall  
11 bear interest at the rate of 1% per month from the date such  
12 the returns should have been made and ~~said~~ the tax paid.

13 (4) The department shall then proceed to collect such  
14 the tax with penalties and interest. Upon request of the  
15 department, it shall-be is the duty of the attorney general  
16 to commence and prosecute to final determination in any  
17 court of competent jurisdiction an action to collect such  
18 the tax.

19 (5) If all or part of the tax imposed upon a brewer or  
20 wholesaler by this part is not paid when due, the department  
21 may issue a warrant for distraint as provided in Title 15,  
22 chapter 1, part 7. The resulting lien has precedence over  
23 any other claim, lien, or demand thereafter filed or  
24 recorded after the warrant is issued.

25 (6) ~~No~~ An action ~~shall~~ may not be maintained to enjoin

1 the collection of such the tax ~~or-any-part-thereof~~.

2 (7) Any tax owed by a brewer or wholesaler under this  
3 code not paid within the time provided ~~shall--be~~ is  
4 delinquent, and a penalty of 5% shall be added ~~thereto~~ to  
5 the tax, and the ~~whole-thereof-shall~~ tax and penalty bear  
6 interest at the rate of 1% per month from the date of  
7 delinquency until paid. Any brewer or wholesaler who fails,  
8 neglects, or refuses to make the return to the department  
9 provided for in 16-3-211 or 16-3-231 or refuses to allow  
10 such the examination as provided for in 16-3-211 or 16-3-231  
11 or fails to make an accurate return according to the manner  
12 prescribed ~~shall-be-deemed~~ is guilty of having--committed a  
13 misdemeanor and upon conviction shall be fined in an amount  
14 not exceeding \$1,000."

15 **Section 8.** Section 16-2-108, MCA, is amended to read:  
16 "16-2-108. Disposition of money received. All ~~moneys~~  
17 money received from the sale of liquor and table wine at the  
18 state liquor stores shall be deposited in the enterprise  
19 fund in the state treasury to the credit of the department.  
20 The department is ~~hereby~~ authorized to purchase liquor and  
21 table wine from ~~moneys~~ money deposited to its account in the  
22 enterprise fund. The department shall pay from its account  
23 in the enterprise fund its administrative expenses, subject  
24 to the limits imposed by legislative appropriation. ~~No~~ An  
25 obligation created or incurred by the department may ~~ever~~

1 not be or become a debt or claim against the state of  
 2 Montana but ~~shall be~~ is payable by the department solely  
 3 from funds derived from the operation of state liquor  
 4 stores. The Except as otherwise provided in Title 16,  
 5 chapter 1, part 4, the department shall pay into the state  
 6 treasury to the credit of the general fund the receipts from  
 7 all taxes and licenses collected by it and also the net  
 8 proceeds from the operation of state liquor stores."

9 **Section 9.** Section 41-3-701, MCA, is amended to read:

10 "41-3-701. Child abuse-and-neglect--prevention--program  
 11 programs. (1) The Montana children's trust fund board,  
 12 provided for in 2-15-2402, shall use the money in the  
 13 children's trust fund account established by 41-3-702 to  
 14 fund services and activities operated by nonprofit private  
 15 or public community-based educational and service  
 16 organizations and other organizations, which services and  
 17 activities relate ~~solely~~ to the health, welfare, safety,  
 18 education, and care of children, including but not limited  
 19 to prevention of child abuse and neglect, day-care programs,  
 20 early intervention to solve problems, and programs that  
 21 promote emotional and physical growth.

22 (2) In administering ~~the--child--abuse--and--neglect~~  
 23 ~~prevention-program~~ this part, the board shall:

24 (a) develop a state plan, priorities for funded  
 25 services and activities, and criteria for the receipt of

1 program funds;

2 (b) monitor the expenditure of funds by organizations  
 3 receiving funds under this section;

4 (c) evaluate the effectiveness of services and  
 5 activities funded under this section; and

6 (d) adopt rules necessary to implement this section and  
 7 41-3-703 and 41-3-704."

8 **Section 10.** Section 41-3-702, MCA, is amended to read:

9 "41-3-702. Children's trust fund account --  
 10 nonsupplantation of funds. (1) There is a children's trust  
 11 fund account in the state special revenue fund in the state  
 12 treasury. The money in the account is allocated to the  
 13 Montana children's trust fund board, provided for in  
 14 2-15-2402, for funding services and activities under and  
 15 payment of administrative costs of ~~the--child--abuse--and~~  
 16 ~~neglect--prevention--program--provided--for--in--41-3-701~~ this  
 17 part.

18 (2) Funds deposited in the children's trust fund  
 19 account may be used only for ~~the-program-authorized-in~~  
 20 ~~41-3-701~~ the purposes of this part and may not be used to  
 21 pay the expenses of any other program or service  
 22 administered in whole or in part by the department of family  
 23 services.

24 (3) Interest earned by money deposited in the  
 25 children's trust fund account must remain in the account, to

1 be used for the purposes of this part."

2 **Section 11.** Section 41-3-703, MCA, is amended to read:

3 **"41-3-703. Gifts and grants to program.** The Montana  
4 children's trust fund board may accept contributions, gifts,  
5 and grants, in money or otherwise ~~to the child abuse and~~  
6 ~~neglect prevention program.~~ Monetary gifts, contributions,  
7 and grants must, upon receipt, be paid into the children's  
8 trust fund account established by 41-3-702."

9 **Section 12.** Section 41-3-704, MCA, is amended to read:

10 **"41-3-704. Program costs.** The costs incurred by the  
11 Montana children's trust fund board in administering the  
12 ~~child abuse and neglect prevention program~~ this part must be  
13 paid for with money from the children's trust fund account  
14 established by 41-3-702. The board shall keep costs to a  
15 minimum and use existing office space, personnel, equipment,  
16 and supplies of the department of family services to the  
17 extent possible."

18 **NEW SECTION. Section 13.** Voiding of act. [This act] is  
19 void if it is passed and approved without a tax of 5 cents  
20 on each bottle and can of beer and each bottle of table wine  
21 sold in Montana with the proceeds to be deposited in the  
22 account created in 41-3-702.

23 **NEW SECTION. Section 14.** Extension of authority. Any  
24 existing authority to make rules on the subject of the  
25 provisions of [this act] is extended to the provisions of

1 [this act].

2 **NEW SECTION. Section 15.** Codification instruction.  
3 [Sections 1 and 2] are intended to be codified as an  
4 integral part of Title 16, chapter 1, part 4, and the  
5 provisions of Title 16, chapter 1, part 4, apply to  
6 [sections 1 and 2].

7 **NEW SECTION. Section 16.** Effective date. [This act] is  
8 effective July 1, 1989.

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