

HOUSE BILL 26

Introduced by Pavlovich, et al.

6/20	Introduced
6/20	Referred to Taxation
6/20	Fiscal Note Requested
6/21	Fiscal Note Received
6/22	Fiscal Note Printed
	Died in Committee

1 *House* BILL NO. *26*
 2 INTRODUCED BY *Carlvin Compton M.C. 032*
 3 *Al. 12*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A TAX ON SOFT
 5 DRINKS TO SUPPORT STATE EQUALIZATION AID FOR PUBLIC SCHOOLS;
 6 PROVIDING PENALTIES; AND PROVIDING EFFECTIVE DATES."
 7

8 STATEMENT OF INTENT

9 A statement of intent is required for this bill because
 10 [section 7] grants authority to the department of revenue to
 11 make rules necessary to implement the provisions of this
 12 bill. In exercising this authority, the legislature intends
 13 that the department shall comply with all pertinent state
 14 and federal laws and shall conform with its own applicable
 15 rules. The legislature further intends that the department
 16 adopt and implement only those rules that are essential to
 17 the effective administration of this bill without
 18 superfluous reporting.

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21 NEW SECTION. **Section 1.** Definitions. As used in
22 [this act], the following definitions apply:

23 (1) "Bottler" is a person who imports or manufactures
 24 soft drinks or mixes, blends, or dilutes syrup or
 25 concentrate with carbonated water or other liquids into soft

1 drinks for sale or distribution at wholesale or retail for
 2 human consumption in Montana.

3 (2) "Department" is the department of revenue
 4 established in 2-15-1301.

5 (3) "Retailer" means a person other than a bottler who
 6 engages in the business of selling soft drinks to the
 7 ultimate consumer.

8 (4) "Sell" or "selling" means any transfer of soft
 9 drinks for a consideration, exchange, barter, gift, or offer
 10 for sale and distribution in any manner or by any means.

11 (3) "Soft drink" is:

12 (a) a nonalcoholic, carbonated beverage imported or
 13 manufactured, mixed, blended, or diluted by a bottler for
 14 human consumption in Montana and distributed by a bottler
 15 in:

16 (i) a disposable or returnable container intended for
 17 sale without further mixing, blending, or diluting by a
 18 retailer; or

19 (ii) a disposable or returnable vessel from which the
 20 beverage is dispensed by a retailer without further mixing,
 21 blending, or diluting; or

22 (b) a nonalcoholic syrup or concentrate that a
 23 retailer may mix, blend, or dilute with other ingredients to
 24 produce a beverage to be dispensed for consumption.

25 NEW SECTION. **Section 2.** Tax on soft drinks. There is

1 levied, imposed, and assessed upon soft drinks imported into
2 or manufactured, mixed, blended, or diluted in Montana,
3 except soft drinks intended for and transported out of
4 Montana for retail sale or consumption outside of Montana, a
5 tax of:

6 (1) 0.25 cent an ounce on beverages included in
7 [section 1(3)(a)]; and

8 (2) \$1.92 a gallon on syrup or concentrate included in
9 [section 1(3)(b)].

10 NEW SECTION. Section 3. Bottler to pay tax. The tax
11 imposed under [section 2] must be paid by the bottler at the
12 time and in the manner provided by department rule.

13 NEW SECTION. Section 4. Bottler's sale without tax
14 payment a misdemeanor -- penalty. A bottler who sells any
15 soft drink without complying with [section 3] is guilty of a
16 misdemeanor and must be enjoined by an action, pursued in
17 the district court of Lewis and Clark County, from selling
18 soft drinks for not less than 1 month or more than 1 year.

19 NEW SECTION. Section 5. Unlawful sales -- penalty.
20 (1) A person may not sell or offer to sell soft drinks
21 subject to the tax imposed in [section 2] unless the tax has
22 been paid as provided in [section 3].

23 (2) Violation of this section is a misdemeanor
24 punishable by a fine of not more than \$500 or imprisonment
25 for not more than 6 months.

1 NEW SECTION. Section 6. Bottler's discount --
2 disposition of taxes. The bottler must pay in full to the
3 department the tax imposed in [section 2], less 5%
4 defrayment for collection and administrative expenses. The
5 department shall deposit the tax paid in the state special
6 revenue fund for state equalization aid to public schools.
7 If the soft drinks become unsalable, refunds of the tax paid
8 may be made as provided in 15-1-503.

9 NEW SECTION. Section 7. Department to adopt rules.
10 The department shall adopt rules necessary to implement the
11 provisions of [this act].

12 NEW SECTION. Section 8. Codification instruction.
13 [Sections 1 through 7] are intended to be codified as a
14 integral part of Title 15, and the provisions of Title 1
15 apply to [sections 1 through 7].

16 NEW SECTION. Section 9. Effective dates. (1
17 [Sections 7 and 8 and this section] are effective on passag
18 and approval.

19 (2) [Sections 1 through 6] are effective July 1, 1990

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB26, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act imposing a tax on soft drinks to support state equalization aid for public schools; providing penalties; and providing effective dates.

ASSUMPTIONS:

1. Per capita soft drink consumption in Montana is the same as the national average: 50.42 gallons per year. All soft drink consumption in Montana will be taxed under this proposal.
2. The population of Montana is estimated to be 815,000 in FY90 and 819,000 in FY91.(HJR13)
3. The proposal places a tax of \$0.0025 an ounce on carbonated beverages, and a tax of \$1.92 a gallon on syrup or concentrate. These taxes are equivalent (i.e., 1 gallon of syrup or concentrate is used to make 6 gallons of soft drink).
4. Total collections under this proposal, less a 5% defrayment to bottlers, are deposited in the state special revenue fund for state equalization aid to public schools.
5. Annual expenditures: 1 FTE Grade 9, Step 2; equipment - \$2,300; telephone - \$500; supplies - \$400; space \$292; training - \$100; forms and mailing - \$1,500.
6. The soft drink tax is effective July 1, 1990, so there is no impact in FY90.
7. Collections are monthly and due to the month lag in collections, 11 months of revenues are received in FY91.

FISCAL IMPACT:

Revenue Impact:

	<u>FY90</u>			<u>FY91</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Soft Drink Tax	0			0	\$11,507,256	\$11,507,256

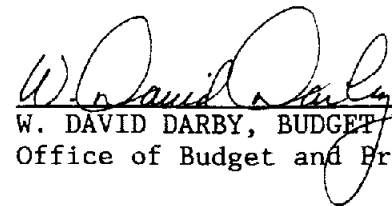
Expenditure Impact:

No Impact

Personal Expenses	0	17,462	17,462
Operating Expenses	0	4,992	4,992
Total	0	\$22,454	22,454

TECHNICAL NOTE:

An appropriation would be required for the Department of Revenue to recover the anticipated administrative expenses.

 DATE 6/21/89
 W. DAVID DARBY, BUDGET DIRECTOR
 Office of Budget and Program Planning

 DATE 6/21/89
 ROBERT J. PAVLOVICH, PRIMARY SPONSOR

Fiscal Note for HB26, as introduced.

HB 26