

HOUSE BILL 57

Introduced by Driscoll

6/26	Introduced
6/26	Referred to Labor & Employment Relations
6/27	Hearing
6/28	Committee Report--Bill Passed as Amended
6/30	2nd Reading Indefinitely Postponed

1 HOUSE BILL NO. 57
2 INTRODUCED BY Dunneill
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPOSE A TAX ON SOFT
5 DRINKS TO REDUCE THE UNFUNDED LIABILITY IN THE WORKERS'
6 COMPENSATION STATE FUND; AMENDING SECTION 39-71-2504, MCA;
7 AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."
8

9 STATEMENT OF INTENT

10 A statement of intent is required for this bill because
11 [section 7] grants authority to the department of revenue to
12 make rules necessary to implement the provisions of this
13 bill. In exercising this authority, the legislature intends
14 that the department shall comply with all pertinent state
15 and federal laws and shall conform with its own applicable
16 rules. The legislature further intends that the department
17 adopt and implement only those rules that are essential to
18 the effective administration of this bill without
19 superfluous reporting.
20

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

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

24 (1) "Bottler" means a person who imports or
25 manufactures soft drinks or mixes, blends, or dilutes syrup

1 or concentrate with carbonated water or other liquids into
2 soft drinks for sale or distribution at wholesale or retail
3 for human consumption in Montana.

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

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

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

12 (5) "Soft drink" means:

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

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

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

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

(6) "Tax" means the tax provided for in [section 2].

NEW SECTION. Section 2. Tax on soft drinks. There is levied, imposed, and assessed upon soft drinks imported into or manufactured, mixed, blended, or diluted in Montana, except soft drinks intended for and transported out of Montana for retail sale or consumption outside of Montana, a tax of:

(1) 0.417 cent an ounce on beverages included in [section 1(5)(a)]; and

(2) \$3.20 a gallon on syrup or concentrate included in [section 1(5)(b)].

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

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

NEW SECTION. Section 5. Unlawful sales -- penalty.

(1) A person may not sell or offer to sell soft drinks subject to the tax imposed in [section 2] unless the tax has been paid as provided in [section 3].

(2) Violation of this section is a misdemeanor

punishable by a fine of not more than \$500 or imprisonment for not more than 6 months.

NEW SECTION. Section 6. Bottler's discount -- disposition of taxes. The bottler must pay in full to the department the tax imposed in [section 2], less 5% defrayment for collection and administrative expenses. The department shall deposit all taxes collected into the workers' compensation tax account established in 39-71-2504. If the soft drinks become unsalable, refunds of the tax paid may be made as provided in 15-1-503.

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

Section 8. Section 39-71-2504, MCA, is amended to read:

"39-71-2504. (Temporary) Workers' compensation tax account. (1) There is an a workers' compensation tax account in the state special revenue fund. The account consists of:

(a) All all collections of the tax, and including interest and penalties on the tax must-be-deposited-in-the account-and-are; and

(b) all collections of the tax on soft drinks provided for in [section 2].

(2) All money in the tax account is statutorily appropriated, as provided in 17-7-502, to the department to

1 be used to reduce the unfunded liability in the state fund.
2 (Terminates June 30, 1991--sec. 10, Ch. 664, L. 1987.)"

3 NEW SECTION. Section 9. Codification instruction.
4 [Sections 1 through 7] are intended to be codified as an
5 integral part of Title 15, and the provisions of Title 15
6 apply to [sections 1 through 7].

7 NEW SECTION. Section 10. Effective dates. (1)
8 [Sections 7 and 9 and this section] are effective on passage
9 and approval.

10 (2) [Sections 1 through 6 and 8] are effective July 1,
11 1990.

12 NEW SECTION. Section 11. Termination. [This act]
13 terminates June 30, 1991.

-End-

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

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2 INTRODUCED BY DRISCOLL

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23 (b) a nonalcoholic syrup or concentrate that a
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4 or manufactured, mixed, blended, or diluted in Montana,
5 except soft drinks intended for and transported out of
6 Montana for retail sale or consumption outside of Montana, a
7 tax of:

8 (1) ~~0.47~~ 0.25 cent an ounce on beverages included in
9 [section 1(5)(a)]; and

10 (2) ~~\$3.20~~ \$1.92 a gallon on syrup or concentrate
11 included in [section 1(5)(b)].

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8 workers' compensation tax account established in 39-71-2504.
9 If the soft drinks become unsalable, refunds of the tax paid
10 may be made as provided in 15-1-503.

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12 The department shall adopt rules necessary to implement the
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