

1 HOUSE BILL NO. 32

2 INTRODUCED BY HARRINGTON

3 BY REQUEST OF THE DEPARTMENT OF COMMERCE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE SALES TAX ON NEW MOTOR VEHICLES BY
6 \$1; PROVIDING THAT THE REVENUE IS TO BE USED BY THE DEPARTMENT OF COMMERCE TO
7 ADMINISTER THE NEW VEHICLE WARRANTY LAWS; EXCLUDING FLEET VEHICLES FROM THE
8 DEFINITION OF CONSUMER UNDER THE NEW VEHICLE WARRANTY LAWS; AMENDING SECTIONS
9 61-3-502 AND 61-4-501, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

12
13 **Section 1.** Section 61-3-502, MCA, is amended to read:

14 **"61-3-502. Sales tax on new motor vehicles -- exemptions.** (1) In consideration of the right to
15 use the highways of the state, there is imposed a tax upon all sales of new motor vehicles, excluding
16 trailers, semitrailers, and housetrailer, for which a license is sought and an original application for title is
17 made. The tax must be paid by the purchaser when the purchaser applies for an original Montana license
18 through the county treasurer.

19 (2) Except as provided in subsections (4) and (5), the sales tax is:

20 (a) 1½ % of the f.o.b. factory list price or f.o.b. port-of-entry list price, during the first quarter of
21 the year or for a registration period other than a calendar year or calendar quarter;

22 (b) 1 1/8% of the list price during the second quarter of the year;

23 (c) 3/4 of 1% during the third quarter of the year;

24 (d) 3/8 of 1% during the fourth quarter of the year; and

25 (e) \$1 in addition to the amount collected under subsections (2)(a) through (2)(d).

26 (3) If the manufacturer or importer fails to furnish the f.o.b. factory list price or f.o.b. port-of-entry
27 list price, the department may use published price lists.

28 (4) The new car sales tax on vehicles subject to the provisions of 61-3-313 through 61-3-316 is
29 1½ % of the f.o.b. factory list price or f.o.b. port-of-entry list price regardless of the month in which the
30 new vehicle is purchased.

1 (5) The sales tax on new motor vehicles registered as part of a fleet under 61-3-318 is 3/4 of 1%
2 of the f.o.b. factory list price or f.o.b. port-of-entry list price.

3 (6) (a) Except as provided in subsection (6)(b), the ~~The~~ proceeds from this tax must be remitted
4 to the state treasurer every 30 days for credit to the state highway account of the state special revenue
5 fund. The county treasurer shall retain 5% of the taxes collected to pay for the cost of administration.

6 (b) The state treasurer shall place \$1 of the tax collected on each motor vehicle under this section
7 into a special revenue account. The department of commerce shall use the account to carry out its duties
8 under Title 61, chapter 4, part 5.

9 (7) The new vehicle is not subject to any other assessment, fee in lieu of tax, or tax during the
10 calendar year in which the original application for title is made.

11 (8) (a) The applicant for original registration of any new and unused motor vehicle, or a new motor
12 vehicle furnished without charge by a dealer to a school district for use as a traffic education motor vehicle
13 by a school district operating a state-approved traffic education program within the state, whether or not
14 previously licensed or titled to the school district (except a mobile home as defined in 15-1-101(1)),
15 acquired by original contract after January 1 of any year, is required, whenever the vehicle has not been
16 otherwise assessed, to pay the motor vehicle sales tax provided by this section irrespective of whether the
17 vehicle was in the state of Montana on January 1 of the year.

18 (b) A motor vehicle may not be registered or licensed under the provisions of this subsection (8)
19 unless the application for registration is accompanied by a statement of origin to be furnished by the dealer
20 selling the vehicle, showing that the vehicle has not previously been registered or owned, except as
21 otherwise provided in this section, by any person, firm, corporation, or association that is not a new motor
22 vehicle dealer holding a franchise or distribution agreement from a new car manufacturer, distributor, or
23 importer.

24 (9) (a) Motor vehicles operating exclusively for transportation of persons for hire within the limits
25 of incorporated cities or towns and within 15 miles from the limits are exempt from subsection (1).

26 (b) Motor vehicles brought or driven into Montana by a nonresident, migratory, bona fide
27 agricultural worker temporarily employed in agricultural work in this state ~~where~~ when those motor vehicles
28 are used exclusively for transportation of agricultural workers are also exempt from subsection (1).

29 (c) Vehicles lawfully displaying a licensed dealer's plate, as provided in 61-4-103, are exempt from
30 subsection (1) when moving to or from a dealer's place of business when unloaded or loaded with dealer's

1 property only, and, in the case of vehicles having a gross loaded weight of less than 24,000 pounds, while
2 being demonstrated in the course of the dealer's business."

3

4 **Section 2.** Section 61-4-501, MCA, is amended to read:

5 **"61-4-501. Definitions.** For purposes of this part, the following definitions apply:

6 (1) "Collateral charge" means all governmental charges, including but not limited to sales tax,
7 property tax, license and registration fees, and fees in lieu of tax.

8 (2) "Consumer" means the purchaser, other than for purposes of resale, or as part of a fleet as
9 defined in 61-3-318, of a motor vehicle that has not been brought into nonconformity as the result of
10 abuse, neglect, or unauthorized modifications or alterations by the purchaser, any person to whom the
11 motor vehicle is transferred during the duration of an express warranty applicable to the motor vehicle, or
12 any other person entitled by the terms of the warranty to the benefits of its provisions.

13 (3) "Incidental damage" means incidental and consequential damage as defined in 30-2-715.

14 (4) "Manufacturer" has the meaning applied to that word in 61-4-201.

15 (5) (a) "Motor vehicle" means a vehicle, including the nonresidential portion of a motor home as
16 defined in 61-1-130, propelled by its own power, designed primarily to transport persons or property upon
17 the public highways, and sold in this state.

18 (b) The term does not include a truck with 10,000 pounds or more gross vehicle weight rating or
19 a motorcycle as defined in 61-1-105. Motor vehicle does not include components, systems, fixtures,
20 appliances, furnishings, accessories, and features that are designed, used, and maintained primarily for
21 residential purposes.

22 (6) "Reasonable allowance for use" is an amount directly attributable to use of the motor vehicle
23 by the consumer and any previous consumers prior to the first written notice of the nonconformity to the
24 manufacturer or its agent and during any subsequent period when the vehicle is not out of service because
25 of nonconformity. The reasonable allowance for use shall must be computed by multiplying the total
26 contract price of the vehicle by a fraction having as its denominator 100,000 and having as its numerator
27 the number of miles that the vehicle traveled prior to the manufacturer's acceptance of its return.

28 (7) "Warranty period" means the period ending 2 years after the date of the original delivery to the
29 consumer of a new motor vehicle or during the first 18,000 miles of operation, whichever is earlier."

30

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0032, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act increasing the sales tax on new motor vehicles by \$1; providing that the revenue is to be used by the Department of Commerce to administer the New Vehicle Warranty Act (NVWA), or "Lemon Law"; excluding fleet vehicles from the definition of consumer under the new vehicle warranty laws; and providing an effective date.

ASSUMPTIONS:

1. New car sales in Montana will be 30,000 each year of the biennium, resulting in \$30,000 of revenue each year of the biennium.
2. Pursuant to 61-4-517, MCA, filing fees of \$300 are required for arbitration requests, with consumers paying \$50 and manufacturers, \$250. The department estimates that it will receive approximately 20 arbitration requests and receive \$6,000 each year of the biennium to conduct arbitration proceedings.
3. The department estimates that 1.00 FTE grade 12 would be required to administer the New Vehicle Warranty Act at a cost of \$27,750 in FY96 and \$27,840 in FY97.
4. Operating costs, which include estimated arbitration proceeding expenses, are projected at \$8,250 in FY96 and \$8,160 in FY 97.

FISCAL IMPACT:

Department of Commerce, Office of Consumer Affairs

Expenditures:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
FTE	1.00	1.00
Personal Services	27,750	27,840
Operating Expenses	8,250	8,160
Equipment	<u>0</u>	<u>0</u>
Total	36,000	36,000
State Special Revenue	36,000	36,000

Revenues:

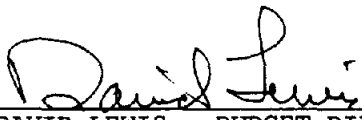
	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
NVWA Fees	30,000	30,000
Arbitration Fees	<u>6,000</u>	<u>6,000</u>
Total	36,000	36,000
Consumer Affairs SSR (02)	36,000	36,000

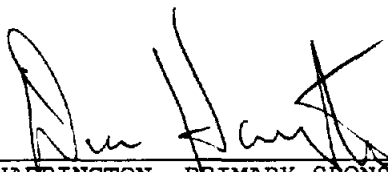
Net Impact:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
State Special Revenue	0	0

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

New vehicle purchasers will have an intermediate avenue of appeal if manufacturers have not established an informal dispute settlement procedure certified by the Department of Commerce.

 1-4-95
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning


 DAN HARRINGTON, PRIMARY SPONSOR DATE
 Fiscal Note for HB0032, as introduced

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