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INTRODUCED BY Leitung SB BILL NO. 194
HARP

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE OWNER OR OPERATOR OF A FOREIGN VEHICLE USED IN GAINFUL OCCUPATION TO AFFIX A DECAL TO THE WINDSHIELD; REQUIRING THE DEPARTMENT OF JUSTICE TO GENERATE THE DECALS AND ISSUE THEM TO THE COUNTY TREASURERS; EXCEPTING FROM TAXATION PERSONAL PROPERTY ATTACHED TO A FOREIGN VEHICLE REGISTERED IN MONTANA; ELIMINATING THE PROVISION THAT A TAXPAYER MAY OBTAIN A REFUND OF A PRORATED PORTION OF TAXES PAID ON PERSONAL PROPERTY REMOVED FROM THE STATE; AMENDING SECTIONS 15-16-603, 15-24-301, 15-24-303, AND 61-3-701, MCA; AND REPEALING SECTION 15-16-613, MCA."

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

Section 1. Section 15-16-603, MCA, is amended to read:

"15-16-603. Refund of taxes -- limitations on refunds. (1) Subject to the provisions in subsections (2) and (3), a board of county commissioners shall order a refund:

(a) on a tax, penalty, interest, or cost paid more than once or erroneously or illegally collected if an appeal pursuant to 15-1-402 was not available;

(b) on a tax paid for which a refund is allowed under 15-16-612 ~~or 15-16-613~~;

(c) on a tax, penalty, or interest collected as a result of an error in the description or location of real property or improvements or for duplicate taxes paid as determined by the department of revenue;

(d) on net or gross proceeds tax, centrally assessed property tax, or local government severance tax, penalty, or interest when the department of revenue notifies the board of county commissioners of an assessment revision completed pursuant to 15-8-601; or

(e) upon entry of a decision either by the district court or by the state tax appeal board under 15-2-306 that has not been appealed to a higher court.

(2) The taxpayer shall prove that a refund is due under subsection (1)(a) or (1)(b).

(3) (a) A refund may not be granted under subsection (1)(a) or (1)(b) unless the taxpayer or a representative of the taxpayer files a written claim with the board of county commissioners within 10 years

1 after the date when the second half of the taxes would have become delinquent if the taxes had not been
2 paid.

3 (b) The refund required under subsection (1)(c) must be made for 5 tax years or for the duration
4 of the error, whichever period is shorter.

5 (c) A refund may not be made under subsection (1)(c) unless the taxpayer allowed the department
6 of revenue access to the taxpayer's property for the purposes of appraising the property."

7

8 **Section 2.** Section 15-24-301, MCA, is amended to read:

9 **"15-24-301. Personal property brought into the state -- assessment -- exceptions -- custom**
10 **combine equipment.** (1) Except as provided in subsections (2) through (5), property in the following cases
11 is subject to taxation and assessment for all taxes levied that year in the county in which it is located:

12 (a) any personal property (including livestock) brought, driven, or coming into this state at any time
13 during the year that is used in the state for hire, compensation, or profit;

14 (b) property whose owner or user is engaged in gainful occupation or business enterprise in the
15 state; or

16 (c) property which comes to rest and becomes a part of the general property of the state.

17 (2) ~~The Other than personal property attached to a vehicle registered pursuant to 61-3-701, the~~
18 taxes on this property are levied in the same manner and to the same extent, except as otherwise provided,
19 as though the property had been in the county on the regular assessment date, provided that the property
20 has not been regularly assessed for the year in some other county of the state.

21 (3) ~~Nothing in this~~ This section shall be construed to does not levy a tax against a merchant or
22 dealer within this state on goods, wares, or merchandise brought into the county to replenish the stock of
23 the merchant or dealer.

24 (4) ~~Any A~~ motor vehicle not subject to a fee in lieu of tax brought, driven, or coming into this state
25 by any nonresident person temporarily employed in Montana and used exclusively for transportation of ~~such~~
26 the person is subject to taxation and assessment for taxes as follows:

27 (a) The motor vehicle is taxed by the county in which it is located.

28 (b) One-fourth of the annual tax liability of the motor vehicle must be paid for each quarter or
29 portion of a quarter of the year that the motor vehicle is located in Montana.

30 (c) The quarterly taxes are due the first day of the quarter.

1 (d) Personal property attached to a foreign vehicle registered pursuant to 61-3-701 is not subject
 2 to taxation under this section.

3 (5) Agricultural harvesting machinery classified under class eight, licensed in other states, and
 4 operated on the lands of persons other than the owner of the machinery under contracts for hire ~~shall be~~
 5 is subject to a fee in lieu of taxation of \$35 per machine for the calendar year in which the fee is collected.
 6 The machines ~~shall be~~ are subject to taxation under class eight only if they are sold in Montana."

7
 8 **Section 3.** Section 15-24-303, MCA, is amended to read:

9 **"15-24-303. Proration of tax on personal property —refund.** ~~(4)~~ The tax on personal property
 10 brought, driven, coming into, or otherwise located in the state on or after the assessment date must be
 11 prorated according to the ratio that the remaining number of months in the year bears to the total number
 12 of months in the year. This section does not apply to motor vehicles taxed under Title 61, chapter 3, part
 13 5, or to livestock assessed under 15-24-902(2).

14 ~~(2) If property upon which taxes have been paid is removed from the state, the taxpayer may~~
 15 ~~obtain a refund of a prorated portion of the taxes, subject to the requirements of 15-16-613."~~

16
 17 **Section 4.** Section 61-3-701, MCA, is amended to read:

18 **"61-3-701. Foreign vehicles used in gainful occupation to be registered -- reciprocity.** (1) A person
 19 engaged in gainful occupation or business enterprise in the state, including highway work, shall apply to
 20 the county treasurer for foreign vehicle registration ~~Before any~~ before the person may operate a foreign
 21 licensed motor vehicle may be operated on the highways of this state and before the person uses the
 22 vehicle for hire, compensation, or profit or before the owner and/or user thereof uses the vehicle if such
 23 ~~owner and/or user is engaged in gainful occupation or business enterprise in the state, including highway~~
 24 ~~work, the owner of the vehicle shall make application to a county treasurer for registration upon an~~
 25 ~~application form furnished by the department.~~ Upon satisfactory evidence of ownership submitted to the
 26 county treasurer and the payment of property taxes, if appropriate, as required by 15-8-201, 15-8-202,
 27 15-24-301, 61-3-504, or 61-3-537, the treasurer shall accept the application for registration, ~~and~~ shall
 28 collect the regular license fee required for the vehicle, and shall collect \$2 for the decal issued pursuant to
 29 subsection (2). Registration and purchase of the decal do not exempt the foreign vehicle owner or operator
 30 from paying any of the fees required in Title 61, part 10.

1 (2) ~~The treasurer~~ After receiving satisfactory evidence of ownership and the decal fee, the county
2 treasurer shall thereupon issue to the applicant a copy of the certificate entitled "Owner's Certificate of
3 Registration and Payment Receipt" and forward a duplicate copy of the certificate to the department. The
4 treasurer shall at the same time issue to the applicant the proper ~~license plates or other identification~~
5 markers color-coded decal, which shall must at all times be displayed upon the lower left-hand corner of
6 the vehicle vehicle's windshield when operated or driven upon roads and highways of this state ~~during the~~
7 ~~period of the life of the license.~~

8 (3) (a) The department shall generate the decals issued pursuant to subsection (2) and distribute
9 them to the county treasurers.

10 (b) The decals must be color-coded to distinguish the four calendar quarter registration periods of
11 the year. The colors must correspond with the decal colors used in 61-3-707.

12 (c) The county treasurer shall charge \$2 for each decal and shall forward the proceeds to the state
13 treasurer for deposit in the state general fund.

14 (d) An applicant for a foreign vehicle registration decal may apply for and purchase decals for more
15 than one calendar quarter registration period at a time.

16 ~~(3)~~(4) The registration receipt ~~shall~~ does not constitute evidence of ownership but ~~shall~~ may be
17 used only for registration purposes. ~~No~~ A Montana certificate of ownership ~~shall~~ may not be issued for this
18 type of registration.

19 ~~(4)~~(5) This section is not applicable to any vehicle covered by a valid and existing reciprocal
20 agreement or declaration entered into under the provisions of the laws of Montana."
21

22 NEW SECTION. Section 5. Repealer. Section 15-16-613, MCA, is repealed.
23

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0194, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act requiring the owner or operator of a foreign vehicle used in gainful occupation to affix a decal to the windshield; requiring the Department of Justice to generate the decals and issue them to the county treasurers; excepting from taxation personal property attached to a foreign vehicle registered in Montana; eliminating the provision that a taxpayer may obtain a refund of a prorated portion of taxes paid on personal property removed from the state.

ASSUMPTIONS:

1. Assume the effective date of this bill is January 1, 1998; therefore, fiscal note revenues in FY98 will be 50% of a calendar year and FY99 will represent a full calendar year.
2. The Department of Justice processed and recorded approximately 4,100 applications for RPO's (registration purposes only) during calendar 1996. Assuming an equal number would be recorded in calendar 1998 and 1999, approximately 2,050 RPO transactions would be recorded in FY98 and 4,100 in FY99 generating \$4,100 in FY98 and \$8,200 in FY99 in fees for decals issued by the Department. The Department is also assuming that 61-3-321(4), MCA, would not affect the fees for decals as proposed in Section 4 of this bill.
3. The specific number of decals required for each quarter in each county is unknown; therefore, the Department will purchase an adequate quantity of decals to provide sufficient numbers of color coded decals to all 56 counties for each of the four calendar quarters at an estimated cost of \$200 per 1,000 decals or \$2,000 in FY98 and FY99.
4. It is estimated that approximately 368 hours of programming at a cost of \$7,360 will be required in FY98 to implement this bill.
5. There will be a cost savings to the Department of Corrections due to the decreased number of plates to be manufactured statewide and a decrease revenues in plate fees assessed.

FISCAL IMPACT:


Department of Justice:


	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
Operating Expenses (General Fund)	9,360	2,000
<u>Revenues:</u>		
General Fund (\$2.00 Decal Fees)	4,100	8,200
<u>Net Impact:</u>		
General Fund	(5,260)	6,200

Department of Revenue: (Property Tax)

This bill would have some impact on state mill revenues but the department has no data to measure the impact. There would be a slight gain in revenue due to the elimination of refunds for migratory personal property. There would be a slight loss in revenue due to the elimination of taxes on personal property attached to a foreign vehicle.

(Continued page 2)

 1-24-97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 1/27/97
 THOMAS KEATING, PRIMARY SPONSOR DATE
 Fiscal Note for SB0194 as introduced

SB 194

EFFECT ON LOCAL REVENUES:

This bill would have some impact on local government revenues but the Department of Revenue has no data to measure the impact. There would be a slight gain in revenue due to the elimination of refunds for migratory personal property. There would be a slight loss in revenue due to the elimination of taxes on personal property attached to a foreign vehicle.

EFFECT ON COUNTY EXPENDITURES:

There will be an unknown amount of savings to the counties in staff time to process and account for tax refunds due to the proposed changes in 15-24-303, MCA, which removes the provision for refunds of prorated portions of taxes.

TECHNICAL NOTES:

To take advantage of pricing discounts, in each fiscal year the Department of Justice will need to order decals for a full calendar year which creates costs in one fiscal year for decals used in the first two quarters of the following fiscal year. As a further possible price savings the department is exploring possibilities of ordering decals showing multiple years that could be specifically identified for registration purposes.