

## 1 SENATE BILL NO. 498

2 INTRODUCED BY D. RYAN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A TAX ON THE RETAIL SALE OF MOST GOODS  
5 AND SERVICES ON VISITORS TO MONTANA; ESTABLISHING A 4 PERCENT RATE; PROVIDING THAT  
6 THE SALE OF CERTAIN GOODS AND SERVICES ARE NOT SUBJECT TO THE VISITORS' TAX;  
7 ESTABLISHING PERSONS WHO ARE NOT SUBJECT TO THE TAX; PROVIDING FOR THE  
8 ADMINISTRATION OF THE TAX BY THE DEPARTMENT OF REVENUE; PROVIDING THAT THE  
9 DEPARTMENT OF REVENUE ESTABLISH BY ADMINISTRATIVE RULES THE OPERATION AND  
10 ADMINISTRATION OF THE VISITORS' TAX; PROVIDING PENALTIES; AND PROVIDING AN IMMEDIATE  
11 EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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15 NEW SECTION. **Section 1. Short title.** [Sections 1 through 7] may be cited as the "Montana  
16 Visitors' Tax Act".

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18 NEW SECTION. **Section 2. Purpose.** [Sections 1 through 7] intend to equalize, to the fullest  
19 extent practicable, the fiscal obligations by Montana and non-Montana resident taxpayers to support  
20 Montana public service burdens imposed by each of these two taxpayer groups on those public services.  
21 The purpose of [sections 1 through 7] is to promote the reasonably fair distribution or parity of burdens  
22 between Montana residents and nonresidents. It is further the goal of [sections 1 through 7] to create a  
23 tax regime that will enable the state to increase its revenue in an effort to meet the growing needs and  
24 obligations of the state.

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26 NEW SECTION. **Section 3. Rate of tax -- goods and services subject to tax -- limitations.** (1) A  
27 tax of 4% of the retail sales price is imposed on purchasers, other than Montana taxpayers and other  
28 exempt persons as provided in [section 4], on all sales of taxable goods and services, except goods sold  
29 for resale, within the state. The tax must be collected by the seller and paid to the department by the  
30 seller. The seller holds all taxes collected in trust for the state. The tax must be applied to the sales price.

- 1 (2) The following goods and services are not taxable upon purchase under subsection (1):
- 2 (a) construction, agricultural, mining, manufacturing and other commercial equipment, machinery,
- 3 fixtures, and tools purchased for business purposes;
- 4 (b) automobiles, motorhomes, watercraft, snowmobiles, campers, trailers, and other vehicles upon
- 5 which a tax or a fee in lieu of a tax is paid at the time of purchase or that are subject to a registration tax
- 6 or fee;
- 7 (c) motor fuels;
- 8 (d) alcoholic beverages;
- 9 (e) cigarettes and tobacco products;
- 10 (f) lodging facilities; and
- 11 (g) services paid by a third party under the terms of a sales contract, such as services performed
- 12 under a guaranty, warranty, or insurance policy.

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14 **NEW SECTION. Section 4. Persons exempt from tax -- identification.** (1) The following are

15 exempt from the tax imposed in [section 3]:

- 16 (a) Montana taxpayers;
- 17 (b) minor dependents of Montana taxpayers who live with the taxpayer;
- 18 (c) persons who reside in Montana and, but for age or physical or mental infirmity, would be
- 19 Montana taxpayers;
- 20 (d) persons who are officers, agents, or employees of the United States, an agency or
- 21 instrumentality of the United States, or an Indian tribe making a purchase in their official capacity.

22 (2) For the purposes of this section, a Montana taxpayer is an individual who has paid:

- 23 (a) income taxes under Title 15, chapter 30, to the state, including a person who is required by
- 24 law to file an income tax return even if the result is that no tax is paid to the state; or
- 25 (b) property taxes or who has qualified under the rent-equivalent provisions of the residential
- 26 property tax credit for the elderly under 15-30-171 through 15-30-179.

27 (3) The department, working in concert with other state agencies shall, within 180 days of

28 enactment, develop a resident identification method for the purpose of excluding Montana taxpayers and

29 other exempt persons from being taxed under [sections 1 through 7 ]. In developing the identification

30 method, the department shall consider the feasibility of including a Montana resident taxpayer identification

1 card to accompany Montana income and property tax returns and forms that are mailed by the department  
2 to persons required to file the returns and forms. The department shall consider the feasibility of other  
3 identification means necessary for the administration of [sections 1 through 7]. A taxpayer identification  
4 card may not be easily susceptible to fraudulent duplication.

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6 **NEW SECTION. Section 5. Visitors' tax administration.** Before [120 days after the effective date  
7 of this act], the department shall adopt administrative rules governing the collection, reporting, and  
8 remission of the tax revenue. The rules may be amended from time to time as may be necessary to  
9 administer the tax effectively. The rules must specify:

- 10 (1) the times the taxes collected by businesses are to be remitted to the department;  
11 (2) the methods and procedures to be used in enforcing the collection of taxes due; and  
12 (3) any other matter necessary to effectively administer the provisions of [sections 1 through 7].

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14 **NEW SECTION. Section 6. Vendor and department allowance -- deposit of tax.** (1) Each person  
15 required by [sections 1 through 7] to collect the visitors' tax may withhold up to 5% of the tax collected  
16 to defray the costs of the administration of the tax collection.

17 (2) One percent of the amount of the tax received by the department must be deposited in the  
18 general fund to defer state collection and administration expenses.

19 (3) The balance of the collections must be deposited in the state treasury in a state special  
20 revenue fund to the credit of the university system.

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22 **NEW SECTION. Section 7. Penalties.** A person who violates the reporting or collection provisions  
23 of [sections 1 through 7] or an administrative rule implementing [sections 1 through 7] is subject to:

24 (1) criminal penalties of a fine not to exceed \$1,000 or imprisonment not to exceed 6 months,  
25 or both;

26 (2) civil penalties if the department prevails in a suit for the collection of the taxes, not to exceed  
27 100% of the taxes due plus costs and attorney fees incurred by the department in the suit;

28 (3) revocation of the offender's state, county, or municipal business license, tax permit, or both  
29 the license and tax permit; and

30 (4) any other state criminal offense that may be applicable.

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2           NEW SECTION. **Section 8. Codification instruction.** [Sections 1 through 7] are intended to be  
3 codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 7].

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5           NEW SECTION. **Section 9. Effective date.** [This act] is effective on passage and approval.

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7           NEW SECTION. **Section 10. Applicability.** [This act] applies to retail sales made on or after [180  
8 days after the effective date of this act].

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