

SENATE BILL NO. 332

INTRODUCED BY D. RYAN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING AN EXCISE TAX ON SOFT DRINKS; PROVIDING THAT
5 THE TAX BE PAID BY SOFT DRINK BOTTLERS AND IMPORTERS; PROVIDING THAT THE TAX BE PAID
6 ON EACH UNIT OF SOFT DRINK; PROVIDING FOR THE ADMINISTRATION OF THE TAX; PROVIDING FOR
7 A PENALTY; PROVIDING THAT THE COLLECTIONS OF THE TAX BE USED TO FUND SERVICES FOR
8 OLDER MONTANANS, SCHOLARSHIPS AT UNITS OF THE UNIVERSITY SYSTEM AND COMMUNITY
9 COLLEGES, AND THE OLDER AMERICANS TRUST FUND; AND PROVIDING AN EFFECTIVE DATE AND
10 AN APPLICABILITY DATE."

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

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14 NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 6], the following definitions
15 apply:

16 (1) "Bottler" means a person who manufactures soft drinks in the state for consumption other than home
17 consumption.

18 (2) "Importer" means a person who transports soft drinks into the state for domestic consumption.

19 (3) (a) "Soft drink" means a nonalcoholic beverage that contains natural or artificial sweeteners.

20 (b) The term does not include a beverage that contains milk or milk products, soy, rice, or similar milk
21 substitutes or that contains greater than 50% vegetable or fruit juice by volume.

22 (4) "Unit of soft drink" means:

23 (a) one container, such as a can or bottle, sealed by a bottler, that contains 12 ounces or less of soft
24 drink;

25 (b) each 12 fluid ounces of soft drink in a container containing 12 or more fluid ounces of soft drink; or

26 (c) each measure of concentrate necessary for preparation of 12 fluid ounces of soft drink.
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28 NEW SECTION. **Section 2. Soft drink tax -- rate -- report -- vendor allowance.** (1) Each bottler or
29 importer shall pay to the department an excise tax of 5 cents for each unit of soft drink manufactured or imported
30 by the bottler or importer.

1 (2) A bottler or importer shall report to the department at the end of each calendar quarter on the
2 number of units of soft drink bottled or imported during the quarter. A bottler or importer may deduct from the
3 number of units of soft drink bottled or imported the number of units that the bottler or importer exported from
4 the state and the number of units that were unsalable and destroyed or returned to the bottler or importer. The
5 report is due within 30 days following the end of the calendar quarter and must be accompanied by a payment
6 in an amount equal to the tax required to be collected under this section.

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8 NEW SECTION. Section 3. Bottler and importer registration. A person may not manufacture soft
9 drinks in this state or import soft drinks into this state for the purposes of consumption of the soft drinks in the
10 state unless the person has registered with the department as a soft drink bottler or importer. The registration
11 must be made on forms supplied by the department at no charge. The registration must be renewed annually
12 by a date established by the department.

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14 NEW SECTION. Section 4. Unlawful sales. (1) A person may not knowingly sell or offer to sell soft
15 drinks that were not manufactured or imported by registered bottlers or importers with the intent to evade the
16 tax imposed by [section 2].

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

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20 NEW SECTION. Section 5. Audits -- records -- penalty and interest. (1) The department may audit
21 the books and records of any bottler or importer to ensure that the proper amount of tax imposed by [section 2]
22 has been paid. An audit may be conducted on the premises of the bottler or importer or at any other convenient
23 location.

24 (2) The penalty and interest provisions of 15-1-216 apply to the reporting and payment of the tax
25 imposed by [section 2].

26 (3) The department may conduct an investigation pursuant to 15-1-301 to ensure proper payment of
27 the tax imposed by [section 2].

28 (4) A dispute between a bottler or importer and the department is subject to the uniform dispute review
29 procedure established in 15-1-211.

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1 **NEW SECTION. Section 6. Disposition of tax.** After funding administration of the tax and subtracting
2 any refunds, the following percentages of collections from the tax imposed in [section 2] must be deposited in
3 the state special revenue fund for use as follows:

4 (1) 50% to an account to the credit of the department of health and human services for use by that
5 department in providing services to older Montanans, either directly or through area agencies on aging, including
6 but not limited to services identified under 52-3-504, in-home services, home-based and community-based
7 services, ombudsman services, upgrades and enhancements to Montana's senior citizen centers, senior corps
8 programs such as foster grandparents, the retired and senior volunteer program, and senior companions,
9 medicaid coverage, and a prescription drug analysis program;

10 (2) 25% to an account to the credit of the board of regents for distribution to the student academic
11 scholarship fund or foundation of each unit of the Montana university system, as designated in 20-25-201, and
12 each community college district, as defined in 20-15-101, in per capita amounts based upon the ratio that each
13 unit's enrollment bears to the total enrollment of the university system and all community colleges, to be used
14 by the unit's scholarship fund or foundation for student scholarships; and

15 (3) 25% to the older Americans trust fund account established in [section 7].

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17 **NEW SECTION. Section 7. Older Americans trust fund account.** (1) There is an older Americans
18 trust fund account in the special revenue fund. The account is subject to appropriation after 2011. The account
19 is established to accumulate funds to pay for anticipated public health care expenses of Montanans born during
20 the baby boom.

21 (2) Interest and income earned on the account must be deposited in the account.

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23 **NEW SECTION. Section 8. Codification instruction.** (1) [Sections 1 through 6] are intended to be
24 codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 6].

25 (2) [Section 7] is intended to be codified as an integral part of Title 53, and the provisions of Title 53
26 apply to [section 7].

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28 **NEW SECTION. Section 9. Effective date.** [This act] is effective July 1, 2005.

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30 **NEW SECTION. Section 10. Applicability.** [This act] applies to soft drinks bottled or imported into the

1 state after June 30, 2005.

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