

Amendments to Senate Bill No. 332  
1st Reading Copy

Requested by Senator Don Ryan

For the Senate Taxation Committee

Prepared by Lee Heiman  
February 11, 2005 (7:01am)

1. Title, line 8.

**Strike:** "SCHOLARSHIPS"

**Insert:** "GRANTS"

2. Title, line 9.

**Strike:** "AMERICANS"

**Insert:** "MONTANANS"

3. Title, page 1, line 14.

**Strike:** "6"

**Insert:** "13"

4. Page 1, line 18.

**Following:** "for"

**Insert:** "commercial sale for"

5. Page 1, line 19.

**Following:** "nonalcoholic"

**Insert:** "carbonated"

6. Page 1, line 23.

**Strike:** "12 ounces or less of"

**Insert:** "a"

7. Page 1, line 24.

**Following:** "drink;"

**Insert:** "or"

8. Page 1, line 25.

**Strike:** subsection (b) in its entirety

**Renumber:** subsequent subsection

9. Page 1, line 30.

**Following:** "importer"

**Insert:** "upon sale or shipment to a retailer"

10. Page 2, line 24 through line 25.

**Strike:** subsection (2) in its entirety

**Renumber:** subsequent subsections

11. Page 2, line 30.

**Insert:** "NEW SECTION. **Section 6. Deficiency assessment -- review -- interest -- penalty.** When the department determines that the amount of tax due is greater than the amount reported by a return, it shall mail to the taxpayer a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The taxpayer may seek review of the determination pursuant to 15-1-211.

(2) Penalty and interest must be added to the deficiency assessment as provided in 15-1-216."

**Insert:** "NEW SECTION. **Section 7. Credit for overpayment -- interest on overpayment.** (1) If the department determines that the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment must be credited against any tax, penalty, or interest then due from the taxpayer and the balance must be refunded to the taxpayer or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest must be allowed on overpayments at the same rate as is charged on the amount of unpaid tax, as provided in 15-1-216, due from the due date of the return or from the date of overpayment, whichever is later, to the date the department approves refunding or crediting of the overpayment.

(3) (a) Interest may not accrue during any period in which the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(ii) if the amount of interest is less than \$1."

**Insert:** "NEW SECTION. **Section 8. Penalty and interest for delinquency -- waiver.** (1) Taxes due under [sections 1 through 13] become delinquent if not paid within 30 days after the end of each calendar quarter. The department shall add penalty and interest to the amount of all delinquent taxes as provided in 15-1-216.

(2) Penalty and interest, as provided in 15-1-216, may be waived by the department if reasonable cause for the failure to file the return required by [section 2] is provided to the department."

**Insert:** "NEW SECTION. **Section 9. Estimation of tax upon failure to file return -- notice.** (1) If a bottler or importer fails, neglects, or refuses to file the return required by [section 2] within the time required or fails to pay the tax required by [sections 1 through 13] within the period provided for in [section 2], the department shall estimate the amount of revenue of the bottler or importer that was subject to tax under [sections 1 through 13] during the preceding quarter.

(2) The department shall impose penalties and interest as provided in 15-1-216. The department shall mail to the taxpayer a notice, pursuant to 15-1-211, of the tax, penalty, and interest proposed to be assessed. The taxpayer may seek review of the determination pursuant to 15-1-211. The notice must contain a statement that if payment is not made, a warrant for distraint may be filed. The department may waive any penalty pursuant to 15-1-206."

**Insert:** "NEW SECTION. **Section 10. Warrant for distraint.** If all or part of the tax imposed by [sections 1 through 13] is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any claim, lien, or demand filed after the department files the warrant for distraint."

**Insert:** "NEW SECTION. **Section 11. Statute of limitations.** (1) Except as otherwise provided in this section, a deficiency may not be assessed or collected with respect to the year for which a return is filed unless a notice of additional tax proposed to be assessed is mailed within 5 years from the date on which the return was filed. For the purposes of this section, a return filed before the last day prescribed for filing is considered filed on the last day. If the taxpayer, before the expiration of the period prescribed for the assessment of the tax, consents in writing to an assessment after that time, the tax may be assessed at any time prior to the expiration of the period agreed upon.

(2) A refund or credit may not be allowed or paid with respect to the year for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period, the taxpayer files a claim for refund or the department has determined the existence of the overpayment and has approved the refund or credit of the overpayment. If the taxpayer has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a refund or credit allowed if a claim is not filed is

automatically extended.

(3) If a return is required to be filed and the taxpayer fails to file the return, the tax may be assessed or an action to collect the tax may be brought at any time. If the return is required and the taxpayer files a fraudulent return, the 5-year period provided for in subsection (1) does not begin until discovery of the fraud by the department."

**Insert:** "NEW SECTION. Section 12. Administration -- rules. The department shall:

(1) administer and enforce the provisions of [sections 1 through 13];

(2) cause to be prepared and distributed forms and information that may be necessary to administer the provisions of [sections 1 through 13]; and

(3) adopt rules that may be necessary or appropriate to administer and enforce the provisions of [sections 1 through 13]."

**Renumber:** subsequent sections

12. Page 3, line 9.

**Following:** "program"

**Strike:** ";"

**Insert:** "~~In-home services, home-based and community-based services, ombudsman services, and upgrades and enhancements to Montana's senior citizen centers must be funded at a minimum amount of \$500,000, and the senior corps programs must be funded at minium amount of \$600,000.~~"

13. Page 3, line 10 through line 14.

**Strike:** "board" on line 10 through "scholarships" on line 14

**Insert:** "commissioner of higher education to be used for Montana higher education grants administered under Title 20, chapter 26"

14. Page 3, line 15.

**Strike:** "Americans"

**Insert:** "Montanans"

**Strike:** "7"

**Insert:** "14"

15. Page 3, line 17.

**Strike:** "Americans" in both places

**Insert:** "Montanans"

16. Page 3, line 23.

**Strike:** "6"

**Insert:** "13"

17. Page 3, line 24.

Strike: "6"  
Insert: "13"

18. Page 3, line 25.

Strike: "7"  
Insert: "14"

19. Page 3, line 26.

Strike: "7"  
Insert: "14"

- END -

