

SENATE BILL NO. 501

INTRODUCED BY C. KAUFMANN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A PROGRAM FOR SCHOLARSHIPS AND LOCAL
5 ALCOHOL TREATMENT, PREVENTION, EDUCATION, AND ENFORCEMENT PROGRAMS FUNDED
6 THROUGH PAYMENT OF A TAX ON EACH SERVING OF ALCOHOLIC BEVERAGES SOLD IN RETAIL
7 ESTABLISHMENTS PROVIDING ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES;
8 ESTABLISHING PROVISIONS FOR COUNTY AND INDIAN RESERVATION SCHOLARSHIPS, PROGRAMS
9 FOR TREATMENT, AND PROGRAMS FOR ALCOHOL PREVENTION, EDUCATION, AND ENFORCEMENT;
10 ESTABLISHING THE METHOD FOR DISTRIBUTING FUNDS; PROVIDING THAT THE DEPARTMENT OF
11 HEALTH AND HUMAN SERVICES ADMINISTER THE PROGRAM AND ADOPT RULES; AND PROVIDING AN
12 APPLICABILITY DATE."

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

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16 NEW SECTION. **Section 1. Alcoholic serving tax to fund local treatment, prevention, education,**
17 **and enforcement.** (1) There is a tax of 5 cents on each serving of an alcoholic beverage sold in an
18 establishment licensed for on-premises consumption of alcoholic beverages in the state.

19 (2) A serving of an alcoholic beverage is considered to be 1 fluid ounce of liquor, 8 fluid ounces of table
20 wine, 12 fluid ounces of beer or hard cider, and the equivalent alcoholic content for the appropriate volume for
21 other alcoholic beverages as specified by rule.

22 (3) The tax must be paid on servings sold to an establishment licensed for on-premises sale of alcoholic
23 beverages for use in that establishment. For the tax on servings of liquor, the tax must be paid at the time of sale
24 and delivery to the on-premises retail sale licensee. For the tax on the servings of beer, table wine, and hard
25 cider, the tax must be paid by the distributor or wholesaler or, if the beverage is sold directly by a winery or
26 brewery, the tax must be paid by the winery or brewery on sales to an on-premises retail sale licensee.

27 (4) (a) The tax is payable by the 15th day of each month on servings sold the previous month in the
28 manner and form prescribed by the department. The taxpayer must make an exact return to the department
29 reporting the total amount of servings sold or distributed. The department may at any time make an examination
30 of the taxpayer's books and of the premises and may otherwise check the accuracy of the return. After providing

1 an allowance for refunds and withholding 2% of the remaining proceeds for the administration of the tax and
2 distribution, the department shall deposit the balance of the proceeds of the tax in the account established in
3 [section 2].

4 (b) If a taxpayer subject to the payment of the taxes provided for this section fails to make any return
5 required by this code or fails to make payment of the taxes within the time provided in this section, the department
6 shall, after the time has expired, determine and fix the amount of taxes due the state from the delinquent
7 taxpayer.

8 (c) The department shall then proceed to collect the tax with penalties and interest. Upon request of the
9 department, the attorney general shall prosecute in any court of competent jurisdiction an action to collect the
10 tax.

11 (d) If all or part of the tax imposed upon a taxpayer by this section is not paid when due, the department
12 may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over
13 any other claim, lien, or demand filed or recorded after the warrant is issued.

14 (e) An action may not be maintained to enjoin the collection of the tax or any part of the tax.

15 (f) Any tax owed by a taxpayer under this code that is not paid within the time provided in this code is
16 delinquent, and penalty and interest must be added to the delinquent tax as provided in 15-1-216.

17 (g) A taxpayer who fails, neglects, or refuses to make the return to the department provided for in this
18 section, refuses to allow the examinations as provided for in this section, or fails to make an accurate return in
19 the manner prescribed is guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed
20 \$1,000.

21 (5) The department shall deposit taxes collected pursuant to this section in the account established in
22 [section 2].

23
24 **NEW SECTION. Section 2. Local alcohol treatment prevention, education, and enforcement**
25 **account.** (1) There is an account in the state special revenue fund to the credit of the department of public health
26 and human services for alcohol treatment, prevention, education, and enforcement. Taxes collected pursuant to
27 [section 1] must be deposited in the account. The money in the account is allocated to the department for the
28 prevention, education, and enforcement services provided for in [sections 2 through 6]. The department shall
29 distribute the money in the account to counties and the seven Indian reservations in the state as provided in this
30 section for the purposes in [sections 2 through 6].

1 (2) Except as provided in subsection (3), the department shall, each quarter, distribute the money in the
2 fund to counties and Indian reservations as follows:

3 (a) 69.3% of the fund distributed equally to each entity; and

4 (b) 30.7% of the fund distributed on a per capita basis to each entity.

5 (3) (a) If funds are held in or returned to the account for redistribution to other counties, the returned funds
6 must be distributed with the next quarterly distribution.

7 (b) If a county or an Indian reservation does not have a plan filed with the department for the use of funds
8 under [section 3], the department shall withhold the county's or Indian reservation's distribution for a period not
9 to exceed 3 years. When the plan has been submitted, the department shall distribute all withheld funds to the
10 county or Indian reservation. Funds held for more than 3 years must be distributed as provided in subsection (2).

11
12 **NEW SECTION. Section 3. Local alcohol treatment, prevention, education, and enforcement.** (1)

13 (a) A county or Indian reservation must use funds distributed under [section 2] as follows:

14 (i) 40% must be for treatment programs as provided in [section 4];

15 (ii) 40% must be for prevention, education, and enforcement programs as provided in [section 5]; and

16 (iii) 20% must be for a scholarship program as provided in [section 6].

17 (b) Money not used as provided in subsection (1)(a) reverts to the account provided for in [section 2] for
18 general distribution to all counties and Indian reservations with the ensuing quarterly distribution.

19 (2) Before any money can be distributed to a county or Indian reservation from the account provided for
20 in [section 2], the county or Indian reservation must have a plan for the use of the money in each of the categories
21 established in subsection (1)(a). The plan must be filed with the department. Each county and Indian reservation
22 receiving money from the account in [section 2] must file a quarterly report with the department within 20 days
23 after the end of each quarter detailing the use of the funds in each of the categories and how the expenditures
24 met the plan filed with the department. If the report is received more than 20 days after the end of a quarter, the
25 reporting county or Indian reservation is subject to a 10% reduction in the next distribution as a penalty for the
26 late filing. The department, after deducting 2% for administrative costs, shall distribute the penalty amount as
27 provided in [section 2(2)].

28 (3) The department shall adopt rules governing the use of the funds, the content and manner of
29 amendment of required plans, oversight of [sections 2 through 6], and other matters that the department
30 considers necessary. If the department determines that a county or Indian reservation has used money distributed

1 by [sections 2 through 6] contrary to the provisions of [sections 2 through 6], it shall require that the county or
2 Indian reservation return the funds to the department plus an amount equal to 10% of the misused funds as a
3 penalty. The department shall redistribute the funds as provided in [section 2(2)].

4
5 **NEW SECTION. Section 4. Treatment.** (1) Treatment programs may be either provided directly by a
6 county or Indian reservation or contracted to a Montana provider. If a county or Indian reservation directly
7 provides a treatment program, the administration costs may not exceed 2% of the amount received under [section
8 3(1)(a)(i)] for the program. A contract for treatment programs must be awarded by the county governing board
9 or the appropriate tribal or Indian reservation governing body.

10 (2) Subject to the availability of funds, treatment programs must be available at no cost to persons
11 sentenced to or voluntarily seeking assistance.

12 (3) If possible, the treatment program must be located within the county or Indian reservation. If the
13 treatment program cannot be provided within the county or Indian reservation, the treatment program should be
14 provided at a location closest to the county's or Indian reservation's population center. Treatment programs may
15 also be provided through distance treatment providers.

16 (4) A treatment program must include substance abuse counseling for family members of substance
17 abusers.

18 (5) Treatment funds may be used as matching funds for receipt of federal grants or other grants or as
19 matching funds for treatment programs. Funds may not be held for investment except as provided by state law
20 for local governments.

21
22 **NEW SECTION. Section 5. Prevention, education, and enforcement.** (1) Funds that have been
23 distributed to counties and Indian reservations under [section 3(1)(a)(ii)] must be equitably allocated by the county
24 governing body or the tribal or Indian reservation governing body to law enforcement agencies in the county or
25 Indian reservation. The expenditure of the funds must be administered by the law enforcement agencies. No
26 more than 2% of distributed funds may be used for administrative purposes. Funds may be used as matching
27 funds for receipt of federal grants or other grants or as matching funds for the purposes authorized by this section.
28 Funds may not be held for investment except as provided by state law for local governments. Funds received
29 for the purposes of this section may not be used to supplant existing funded positions.

30 (2) (a) Funds must be used for the following purposes, but no more than 50% may be used for any one

1 purpose:

2 (i) educational purposes, including training for educators, merchants, and officers, educating the public,
3 and hiring school resource officers;

4 (ii) prevention, including substance abuse education, after-school programs, and educating parents and
5 the community; and

6 (iii) enforcement, including party patrols, decoy shoulder taps, compliance checks, sporting events,
7 directed patrols, and equipment purchases for night vision goggles, portable breath testers, portable video
8 systems, cameras, and portable black lights.

9 (b) For equipment purchases under subsection (2)(a)(iii), the department may allow the purchase of
10 other items upon justification by a county or Indian reservation.

11 (c) Enforcement money may be used for regular shift and overtime shift work of law enforcement
12 activities that reduce or enforce laws relating to substance abuse.

13

14 **NEW SECTION. Section 6. Scholarships.** (1) Scholarships must be awarded by a scholarship board.
15 The board consists of three members appointed by the county governing body or the tribal or Indian reservation
16 governing body for terms of 3 years. A person appointed to the board may not be reappointed until 3 years have
17 elapsed since the person's last term on the board. The board must consist of one member from law enforcement,
18 one member from the local educational community, and one community member.

19 (2) The board may grant scholarships to graduating high school seniors for attendance at a public
20 university, college, or trade school.

21 (3) An applicant may apply to only one scholarship board, whether for a county or an Indian reservation.

22 (4) (a) To be eligible for a scholarship, the applicant's parent or guardian must reside in the county or
23 Indian reservation for which the application is made. The applicant must be a graduate or a candidate for
24 graduation from a high school in the county or Indian reservation or, if there is no high school in the county or
25 Indian reservation, from a high school that serves the county or Indian reservation. If there are no high school
26 graduates or candidates for graduation from the county or Indian reservation, the board may accept applications
27 from and award a scholarship to a graduate or candidate from a high school that traditionally serves the county
28 or Indian reservation, notwithstanding that neither the applicant nor the applicant's parent or guardian resides
29 within the county or Indian reservation.

30 (b) A scholarship may not be awarded to a person who has been convicted of an alcohol or drug offense,

1 including driving while under the influence of drugs or alcohol under Title 61, chapter 8, part 4, or as a minor in
2 possession of an intoxicating substance as provided in 45-5-624, or to a person who has been convicted of any
3 other offense punishable by imprisonment in a county jail or state prison.

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5 **NEW SECTION. Section 7. Notification to tribal governments.** The secretary of state shall send a
6 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
7 Chippewa tribe.

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9 **NEW SECTION. Section 8. Codification instruction.** (1) [Section 1] is intended to be codified as an
10 integral part of Title 16, chapter 1, and the provisions of Title 16, chapter 1, apply to [section 1].

11 (2) [Sections 2 through 6] are intended to be codified as an integral part of Title 53, chapter 24, and the
12 provisions of Title 53, chapter 24, apply to [sections 2 through 6].

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14 **NEW SECTION. Section 9. Applicability.** [This act] applies to servings of alcoholic beverages sold,
15 delivered, or distributed after September 30, 2009.

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