

HOUSE BILL NO. 296
INTRODUCED BY R. HAMILTON

A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A FEE OF 1% ON SALES OF PERMISSIBLE FIREWORKS; PROVIDING FOR ADMINISTRATION, COLLECTION, AND DEPOSIT OF THE FEE; PROVIDING A PENALTY FOR KNOWINGLY SELLING OR OFFERING FOR SALE PERMISSIBLE FIREWORKS WITH THE INTENT TO EVADE PAYMENT OF THE FEE; STATUTORILY APPROPRIATING FEES COLLECTED ON SALES OF PERMISSIBLE FIREWORKS TO PAY FOR THE STATE FIRE MARSHAL; AND AMENDING SECTION 17-7-502, MCA."

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

NEW SECTION. Section 1. Fee imposed -- unlawful sales. (1) There is imposed a fee equal to 1% of the sales price upon each sale in this state by a fireworks wholesaler of permissible fireworks enumerated in 50-37-105. Each fireworks wholesaler who possesses a permit issued by the department of labor and industry pursuant to 50-37-104 shall collect the fee from the person to whom the fireworks wholesaler sells permissible fireworks.

(2) A fireworks wholesaler shall report to the department of revenue at the end of each calendar quarter the value, as measured by the sales price, of all permissible fireworks sold during the quarter. The report is due within 30 days following the end of the calendar quarter and must be accompanied by a payment in an amount equal to the fee required to be collected under this section. The report must be made on forms provided by the department of revenue.

(3) The department shall deposit all fees collected under this section to the account established in [section 4] to pay for the state fire marshal.

NEW SECTION. Section 2. Violation -- penalty. (1) A person may not knowingly sell or offer to sell fireworks with the intent to evade the fee imposed by [section 1].

(2) A person who knowingly sells or offers to sell fireworks with the intent to evade the fee imposed by [section 1] is guilty of a misdemeanor punishable by a fine of not more than \$500 or by imprisonment for not more than 6 months, in addition to other penalties provided by this chapter.

NEW SECTION. Section 3. Audits -- records -- penalty and interest. (1) The department may audit the books and records of any person to whom the department of labor and industry has issued a fireworks wholesaler permit to ensure that the proper amount of fee imposed by [section 1] has been paid. An audit may be conducted on the premises of the fireworks wholesaler or at any other convenient location.

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

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

(4) A dispute between a fireworks wholesaler and the department is subject to the uniform dispute review procedure established in 15-1-211.

NEW SECTION. Section 4. Account established -- statutory appropriation. (1) There is an account in the state special revenue fund into which all of the fees collected pursuant to [section 1] must be deposited.

(2) Money in the account is statutorily appropriated, as provided for in 17-7-502, to the department to pay for the state fire marshal, provided for in 2-15-2005, including the cost of salary, benefits, rent, equipment, and other regular office expenses for the state fire marshal.

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

Section 5. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-407; 5-13-403; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319;

19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504; 44-12-206; 44-13-102; [section 4]; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-1-115; 90-1-205; 90-3-1003; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; pursuant to sec. 7, Ch. 314, L. 2005, the inclusion of 23-4-105, 23-4-202, 23-4-204, 23-4-302, and 23-4-304 becomes effective July 1, 2007; and pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January 1, 2010.)"

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

NEW SECTION. Section 7. Codification instruction. (1) [Sections 1 through 3] are intended to be codified as an integral part of Title 15, chapter 68, and the provisions of Title 15, chapter 68, apply to [sections 1 through 3].

(2) [Section 4] is intended to be codified as an integral part of Title 50, chapter 3, and the provisions of Title 50, chapter 3, apply to [section 4].

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