

1 SENATE BILL NO. 303

2 INTRODUCED BY G. HERTZ

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE PENALTIES FOR NONCOMPLIANCE WITH
5 TAX WITHHOLDING REPORTING REQUIREMENTS; PROVIDING FOR WAIVERS OF THE PENALTIES;
6 PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-30-2509 AND 15-30-2546, MCA; AND
7 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 **Section 1.** Section 15-30-2509, MCA, is amended to read:

12 **"15-30-2509. Violations by employer -- penalties, interest, ~~and remedies,~~ AND WAIVERS --**
13 **rulemaking.** (1) The department shall, as provided in 15-1-216, add penalty and interest to the amount of all
14 delinquent withholding taxes.

15 (2) In addition to the penalties imposed by 15-1-216, the failure of an employer to furnish a wage
16 and tax statement, as required by 15-30-2507(1), subjects the employer to a penalty of ~~\$5~~ \$50 for each failure,
17 with a minimum of ~~\$50~~ \$1,000 ~~if the employer furnishes the required wage and tax statement more than 30~~
18 ~~calendar days after the due date of the wage and tax statement.~~

19 ~~(a) The department may waive any penalty imposed under this subsection (2) if the employer~~
20 ~~demonstrates there is reasonable cause for the failure to furnish the required wage and tax statement~~ IF THE
21 DEPARTMENT HAS NOT PREVIOUSLY IMPOSED A PENALTY AUTHORIZED BY THIS SECTION ON THE EMPLOYER, THE
22 PENALTY MUST BE WAIVED IF THE WAGE AND TAX STATEMENT IS FURNISHED WITHIN 30 DAYS OF THE DEPARTMENT'S
23 NOTICE THAT THE STATEMENT IS DELINQUENT.

24 (B) IF THE DEPARTMENT HAS PREVIOUSLY IMPOSED A PENALTY AUTHORIZED BY THIS SECTION ON THE
25 EMPLOYER, THE PENALTY MAY ONLY BE WAIVED IF THE EMPLOYER:

26 (i) SUBMITS THE WAGE AND TAX STATEMENT WITHIN 15 CALENDAR DAYS OF THE DUE DATE OF THE WAGE
27 AND TAX STATEMENT; OR

28 (ii) DEMONSTRATES THERE IS REASONABLE CAUSE FOR THE FAILURE TO FURNISH THE REQUIRED WAGE

1 AND TAX STATEMENT.

2 (C) PENALTIES IMPOSED BY THE DEPARTMENT FOR FAILING TO TIMELY FILE A WAGE AND TAX STATEMENT
3 OCCURRING BEFORE [THE EFFECTIVE DATE OF THIS ACT] ARE NOT RELEVANT WHEN MAKING A DETERMINATION UNDER
4 SUBSECTIONS (2)(A) AND (2)(B).

5 (b)(D) The department is authorized to adopt rules to administer and enforce the provisions of this
6 section.

7 (3) All remedies available to the state for the administration, enforcement, and collection of income
8 taxes are available and apply to the tax required to be deducted and withheld under the provisions of 15-30-
9 2501 through 15-30-2508 unless otherwise specifically provided for in this part."

10

11 **Section 2.** Section 15-30-2546, MCA, is amended to read:

12 **"15-30-2546. Violations by remitter -- penalties -- interest -- remedies -- WAIVERS -- rulemaking.**

13 (1) The department shall, as provided in 15-1-216, add penalty and interest to the amount of all delinquent
14 withholding taxes.

15 (2) A In addition to the penalties imposed by 15-1-216, a remitter that purposely fails to furnish the
16 royalty and tax statement required by 15-30-2544 is subject to a penalty of \$50 \$150 for each failure, with a
17 minimum of \$1,000 \$3,000 if the remitter furnishes the required royalty and tax statement more than 30
18 calendar days after the due date of the royalty and tax statement. The penalties imposed by this subsection are
19 in addition to the penalties imposed by 15-1-216.

20 (a) The department may waive any penalty imposed under this subsection (2) if the remitter
21 demonstrates there is reasonable cause for the failure to furnish the required royalty and tax statement IF THE
22 DEPARTMENT HAS NOT PREVIOUSLY IMPOSED A PENALTY AUTHORIZED BY THIS SECTION ON THE REMITTER, THE PENALTY
23 MUST BE WAIVED IF THE ROYALTY AND TAX STATEMENT IS FURNISHED WITHIN 30 DAYS OF THE DEPARTMENT'S NOTICE
24 THAT THE STATEMENT IS DELINQUENT.

25 (B) IF THE DEPARTMENT HAS PREVIOUSLY IMPOSED A PENALTY AUTHORIZED BY THIS SECTION ON THE
26 REMITTER, THE PENALTY MAY ONLY BE WAIVED IF THE REMITTER:

27 (i) SUBMITS THE ROYALTY AND TAX STATEMENT WITHIN 15 CALENDAR DAYS OF THE DUE DATE OF THE
28 ROYALTY AND TAX STATEMENT; OR

1 (II) DEMONSTRATES THERE IS REASONABLE CAUSE FOR THE FAILURE TO FURNISH THE REQUIRED ROYALTY
2 AND TAX STATEMENT.

3 (C) PENALTIES IMPOSED BY THE DEPARTMENT FOR FAILING TO TIMELY FILE A ROYALTY AND TAX
4 STATEMENT OCCURRING BEFORE [THE EFFECTIVE DATE OF THIS ACT] ARE NOT RELEVANT WHEN MAKING A
5 DETERMINATION UNDER SUBSECTIONS (2)(A) AND (2)(B).

6 (b)(D) The department is authorized to adopt rules to administer and enforce the provisions of this
7 section.

8 (3) All remedies available to the state for the administration, enforcement, and collection of income
9 taxes are available and apply to the tax required to be deducted and withheld under the provisions of 15-30-
10 2536 through 15-30-2547 unless otherwise specifically provided for in this part."

11

12 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

13

- END -