

1 SENATE BILL NO. 20
2 INTRODUCED BY S. FITZPATRICK
3 BY REQUEST OF THE DEPARTMENT OF REVENUE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ALCOHOLIC BEVERAGE TAXATION
6 LAWS; ELIMINATING THE PENNY TAX; PROVIDING FOR DEFICIENCY ASSESSMENTS; PROVIDING
7 PROCEDURES TO COMPUTE ALCOHOLIC BEVERAGE TAXES IN THE ABSENCE OF STATEMENTS;
8 PROVIDING AUTHORITY BY THE DEPARTMENT TO COLLECT DELINQUENT TAXES; PROVIDING FOR
9 REFUNDS AND INTEREST; REVISING LAWS RELATING TO THE FILING OF FORMS; PROVIDING FOR
10 THE FILING OF ELECTRONIC FORMS AND PROVIDING DATES; REVISING ALCOHOLIC BEVERAGE TAX
11 LAWS PERTAINING TO BEER, WINE, AND HARD CIDER, ALCOHOL MANUFACTURED BY DISTILLERIES,
12 AND TABLE WINE; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 16-1-406, 16-1-411,
13 16-1-424, AND 16-2-301, MCA; AND REPEALING SECTION 16-1-409, MCA."
14

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16

17 **NEW SECTION. Section 1. Deficiency assessment -- penalty and interest -- statute of**
18 **limitations.** (1) If the department determines that the amount of the tax due is greater than the amount
19 disclosed by a return, it shall mail to the licensee a notice, pursuant to 15-1-211, of the additional tax proposed
20 to be assessed. The notice must contain a statement that if payment is not made, a warrant for distraint may be
21 filed. The licensee may seek review of the determination pursuant to 15-1-211.

22 (2) Penalty and interest must be added to a deficiency assessment as provided in 15-1-216. The
23 department may waive any penalty pursuant to 15-1-206.

24 (3) The amount of tax due under any return may be determined by the department within 3 years
25 after the return was filed, regardless of whether the return was filed on or after the last day prescribed for filing.
26 For the purposes of this section, a return due under this part and filed before the last day prescribed by law or
27 rule is considered to be filed on the last day prescribed for filing.

Amendment - 1st Reading/2nd House-blue - Requested by: Edward Buttrey - (H) Business and Labor

68th Legislature

Drafter: Jameson Walker, 406-444-3722

SB0020.001.001

1 result of overpayment of taxes collected under this part must be filed within 3 years of the date that the return
2 was due, without regard to any extension of time for filing.

3 (2) (a) Interest paid by the department on an overpayment must be paid or credited at the same
4 rate as the rate charged on delinquent taxes under 15-1-216.

5 (b) Except as provided in subsection (2)(c), interest must be paid from the date that the return was
6 due or the date of overpayment, whichever is later. Interest does not accrue during any period in which the
7 processing of a claim is delayed more than 30 days because the taxpayer has not furnished necessary
8 information.

9 (c) The department is not required to pay interest if:

10 (i) the overpayment is refunded or credited within 6 months of the date that a claim was filed; or

11 (ii) the amount of overpayment and interest does not exceed \$1.

12

13 NEW SECTION. Section 5. Department rulemaking. The department shall prescribe rules
14 necessary to carry out the purposes of imposing and collecting the tax on the sale of alcoholic beverages.

15

16 **Section 6.** Section 16-1-406, MCA, is amended to read:

17 **"16-1-406. Taxes on beer.** (1) (a) A tax is imposed on each barrel of 31 gallons of beer sold in
18 Montana by a wholesaler or by a licensed brewer directly to retailers, special permittees, or the public. ~~A barrel~~
19 ~~of beer equals 31 gallons.~~ The tax is based upon on the total number of barrels of beer produced by a brewer in
20 a year. A brewer who produces less than 10,000 barrels of beer a year is taxed on the following increments of
21 production:

22 (i) up to 5,000 barrels, \$1.30;

23 (ii) 5,001 barrels to 10,000 barrels, \$2.30.

24 (b) The tax on beer sold for a brewer who produces over 10,000 barrels is \$4.30.

25 (2) The tax imposed pursuant to subsection (1) is on a wholesaler and an electronic beer tax return
26 is due at the end of each month from the wholesaler upon on beer sold by the wholesaler during that month.

27 The tax imposed pursuant to subsection (1) on a licensed brewer and an electronic beer tax return is due ~~on of~~

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1 ~~before the 15th day at the end of each month-quarter~~ from the brewer for beer sold during the previous ~~month~~
2 ~~quarter~~. The department shall compute the tax due on beer sold in containers other than barrels or in barrels of
3 more or less capacity than 31 gallons.

4 (3) Each quarter, in accordance with the provisions of 17-2-124, of the tax collected pursuant to
5 subsection (1), an amount equal to:

6 (a) 23.26% must be deposited in the state treasury to the credit of the department of public health
7 and human services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency;
8 and

9 (b) the balance must be deposited in the state general fund."

10

11 **Section 7.** Section 16-1-411, MCA, is amended to read:

12 **"16-1-411. Tax on wine and hard cider -- penalty and interest.** (1) (a) A tax of 27 cents ~~per a~~ liter is
13 imposed on sacramental wine and table wine, except hard cider, ~~imported by a table wine distributor and on~~
14 ~~table wine shipped directly to consumers or licensed retailers by a winery registered or licensed pursuant to 16-~~
15 ~~4-107~~ sold by:

16 (i) ~~a table wine distributor to licensed retailers, agency liquor stores, and special permit holders;~~

17 (ii) ~~a licensed winery directly to licensed retailers, special permit holders, or the public; and~~

18 (iii) ~~a registered winery directly to the public.~~

19 (b) A tax of 3.7 cents ~~per a~~ liter is imposed on hard cider ~~imported~~ sold:

20 (i) ~~by a table wine distributor to licensed retailers, agency liquor stores, and special permit~~
21 ~~holders;~~

22 (ii) ~~by a licensed winery directly to retailers, special permit holders, or the public; and~~

23 (iii) ~~by a registered winery directly to the public and on hard cider shipped directly to licensed~~
24 ~~retailers by a winery licensed pursuant to 16-4-107.~~

25 (2) The tax imposed in subsection (1) must be paid as follows:

26 (a) A winery registered pursuant to 16-4-107 that sells more than 1,000 liters of sacramental wine,
27 table wine, or hard cider, in any combination, to consumers in the state during a period beginning October 1