

HOUSE BILL NO. 635

INTRODUCED BY W. MCKAMEY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE DUI REDUCTION GRANT PROGRAM;
5 INCREASING CERTAIN ALCOHOL TAXES AND REALLOCATING CERTAIN ALCOHOL TAX REVENUE;
6 PROVIDING FOR INFLATION-BASED ADJUSTMENTS; ESTABLISHING THE DUI REDUCTION GRANT
7 BOARD AND STATE SPECIAL REVENUE ACCOUNT; PROVIDING RULEMAKING AUTHORITY; REQUIRING
8 REPORTING; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 16-1-306, 16-1-401,
9 16-1-406, 16-1-411, 17-1-508, 17-2-124, AND 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE, AN
10 APPLICABILITY DATE, AND A TERMINATION DATE."

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

13
14 NEW SECTION. **Section 1. DUI reduction grant board.** (1) There is a DUI reduction grant board
15 administratively attached to the department as prescribed in 2-15-121 to administer the DUI reduction grant
16 program established in [section 2]. The board is designated as a quasi-judicial board pursuant to 2-15-124, except
17 that:

- 18 (a) the requirement that at least one member be an attorney does not apply; and
- 19 (b) the board shall elect a presiding officer from among its members at an annual election.
- 20 (2) The board consists of:
 - 21 (a) the following members appointed by, and serving at the discretion of, the heads of their respective
 - 22 agencies:
 - 23 (i) a substance abuse prevention education specialist from the office of public instruction;
 - 24 (ii) a DUI traffic safety specialist from the department of transportation;
 - 25 (iii) a DUI law enforcement specialist from the department of justice;
 - 26 (iv) an addiction prevention specialist from the department of public health and human services; and
 - 27 (b) the following members appointed by the governor pursuant to 2-15-124:
 - 28 (i) an addiction treatment specialist from a private organization specializing in addiction treatment;
 - 29 (ii) a DUI court judge;
 - 30 (iii) a county commissioner who has served or is serving on a county DUI task force;

1 (iv) a mayor or chief executive of a municipality who is interested in DUI reduction;

2 (v) a sheriff of a county or a chief of municipal police;

3 (vi) a school district superintendent; and

4 (vii) a member of the Montana tavern owners association.

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6 **NEW SECTION. Section 2. DUI reduction grant program -- rulemaking -- reporting.** (1) There is
7 a DUI reduction grant program administered by the DUI reduction grant board established in [section 1] to provide
8 funding pursuant to this section for evidence-based DUI countermeasures.

9 (2) Except as provided in subsection (4), the funds deposited in the DUI reduction grant state special
10 revenue account established in [section 3] must be granted as follows:

11 (a) 70% for DUI prevention and education activities; and

12 (b) 30% for law enforcement, court adjudication of DUI cases, and treatment and education of indigent
13 DUI offenders.

14 (3) Those eligible to receive grants distributed pursuant to this section include municipal, county, and
15 tribal governments, state agencies, DUI and treatment courts, public school districts, private schools, and
16 organizations approved by the department of public health and human services to provide DUI prevention,
17 education, and addiction treatment.

18 (4) Up to 10% of the funds deposited in the DUI reduction grant state special revenue account each year
19 may be used for administrative costs.

20 (5) The board may adopt rules to implement the provisions of this section.

21 (6) The board shall provide a report about its activities and grants awarded pursuant to this section twice
22 per year to the law and justice interim committee and, as provided in 5-11-210, biennially to the legislature.

23

24 **NEW SECTION. Section 3. DUI reduction grant account -- statutory appropriation.** (1) There is a
25 DUI reduction grant account in the state special revenue fund established in 17-2-102.

26 (2) There must be paid into the account money collected pursuant to 16-1-401, 16-1-406, and 16-1-411.

27 (3) The money in the account is statutorily appropriated, as provided in 17-7-502, and may only be used
28 by the DUI reduction grant board pursuant to [section 2].

29 (4) Interest and income earned on the account and any unspent or unencumbered money in the account
30 at the end of a fiscal year must remain in the account.

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Section 4. Section 16-1-306, MCA, is amended to read:

"16-1-306. Revenue to be paid to state treasurer. Except as provided in 16-1-401, 16-1-404, 16-1-406, and 16-1-411, all fees, charges, taxes, and revenue collected by or under authority of the department must, in accordance with the provisions of 17-2-124, be deposited to the credit of the state general fund."

Section 5. Section 16-1-401, MCA, is amended to read:

"16-1-401. Liquor excise tax. (1) Except as provided in subsection (3), the department shall collect at the time of the sale and delivery of any liquor as authorized under any provision of the laws of the state of Montana an excise tax at a rate that is the percent of the retail selling price determined in accordance with the following schedule based on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed the liquor and sold the specified number of proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section:

Nationwide production	Tax rate
Less than 20,000 proof gallons	3%
20,000 to 50,000 proof gallons	8%
50,001 to 200,000 proof gallons	13.8%
Over 200,000 proof gallons	16%

(2) The department shall retain the amount of the excise tax received in a separate account and shall, no later than the 10th day of each month and in accordance with the provisions of 17-2-124, deposit:-

(a) 86.17% to the credit of the general fund; and, the amount collected and received not later than the 10th day of each month

(b) 13.83% in the DUI reduction grant state special revenue account established in [section 3].

(3) The following are exempt from the tax imposed by this section:

(a) flavors and other nonbeverage ingredients containing alcohol that are imported or purchased by a brewery under conditions set by the department as provided in 16-3-214; and

(b) necessary distilled spirits imported in bulk for use by a distillery or microdistillery under conditions set by the department as provided in 16-4-311 and 16-4-312."

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

2 **"16-1-406. Taxes on beer.** (1) (a) A tax is imposed on each barrel of 31 gallons of beer sold in Montana
3 by a wholesaler. A barrel of beer equals 31 gallons. The tax is based upon the total number of barrels of beer
4 produced by a brewer in a year. ~~A~~ Subject to the provisions of subsection (4), a brewer who produces less than
5 10,000 barrels of beer a year is taxed on the following increments of production:

6 (i) up to 5,000 barrels, ~~\$4.30~~ \$1.85;

7 (ii) 5,001 barrels to 10,000 barrels, ~~\$2.30~~ \$3.27.

8 (b) The tax on beer sold for a brewer who produces over 10,000 barrels is ~~\$4.30~~ \$6.73.

9 (2) The tax imposed pursuant to subsection (1) is due at the end of each month from the wholesaler upon
10 beer sold by the wholesaler during that month. The department shall compute the tax due on beer sold in
11 containers other than barrels or in barrels of more or less capacity than 31 gallons.

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

14 (a) ~~23.26%~~ 15.13% must be deposited in the state treasury to the credit of the department of public
15 health and human services for the treatment, rehabilitation, and prevention of alcoholism and chemical
16 dependency;

17 (b) 36.55% must be deposited in the DUI reduction grant account established in [section 3]; and

18 ~~(b)~~(c) the balance must be deposited in the state general fund.

19 (4) The tax per barrel collected for each increment of production pursuant to subsection (1) must be
20 adjusted every 5 years based on the average change to the consumer price index during the preceding 5 years."

21

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

23 **"16-1-411. Tax on wine and hard cider -- penalty and interest.** (1) Subject to the provisions of
24 subsection (5):

25 (a) A tax of ~~27~~ 63 cents per liter is imposed on sacramental wine and table wine, except hard cider,
26 imported by a table wine distributor or the department and on table wine shipped directly by a winery with a direct
27 shipment endorsement.

28 (b) A tax of ~~3.7~~ 5.8 cents per liter is imposed on hard cider imported by a table wine distributor or the
29 department.

30 (2) The tax imposed in subsection (1) must be paid by the winery with a direct shipment endorsement

1 or a table wine distributor by the 15th day of the month following shipment by the winery with the direct shipment
 2 endorsement or sale of the sacramental wine, table wine, or hard cider from the table wine distributor's
 3 warehouse. Failure to file a tax return or failure to pay the tax required by this section subjects the winery with
 4 the direct shipment endorsement or the table wine distributor to the penalties and interest provided for in
 5 15-1-216.

6 (3) The tax paid by a winery with a direct shipment endorsement or by a table wine distributor in
 7 accordance with subsection (2) must, in accordance with the provisions of 17-2-124, be distributed as follows:

8 (a) ~~69%~~ 58.07% to the state general fund; ~~and~~

9 (b) ~~34%~~ 13.48% to the state special revenue fund to the credit of the department of public health and
 10 human services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency; and

11 (c) 28.45% to the DUI reduction grant account established in [section 3].

12 (4) The tax computed and paid in accordance with this section is the only tax imposed by the state or
 13 any of its subdivisions, including cities and towns.

14 (5) The tax per liter collected pursuant to subsection (1) must be adjusted every 5 years based on the
 15 average change to the consumer price index during the preceding 5 years.

16 ~~(5)(6)~~ For purposes of this section, "table wine" has the meaning assigned in 16-1-106, but does not
 17 include hard cider."

18

19 **Section 8.** Section 17-1-508, MCA, is amended to read:

20 **"17-1-508. Review of statutory appropriations.** (1) Each biennium, the office of budget and program
 21 planning shall, in development of the executive budget, review and identify instances in which statutory
 22 appropriations in current law do not appear consistent with the guidelines set forth in subsection (2).

23 (2) The review of statutory appropriations must determine whether a statutory appropriation meets the
 24 requirements of 17-7-502. Except as provided in [section 2], [76-17-103,] 76-22-109, and 77-1-108, a statutory
 25 appropriation from a continuing and reliable source of revenue may not be used to fund administrative costs. In
 26 reviewing and establishing statutory appropriations, the legislature shall consider the following guidelines. A
 27 proposed or existing statutory appropriation may not be considered appropriate if:

28 (a) the money is from a continuing, reliable, and estimable source;

29 (b) the use of the appropriation or the expenditure occurrence is predictable and reliable;

30 (c) the authority exists elsewhere;

- 1 (d) an alternative appropriation method is available, practical, or effective;
- 2 (e) it appropriates state general fund money for purposes other than paying for emergency services;
- 3 (f) the money is used for general purposes;
- 4 (g) the legislature wishes to review expenditure and appropriation levels each biennium; and
- 5 (h) an expenditure cap and sunset date are excluded.

6 (3) The office of budget and program planning shall prepare a fiscal note for each piece of legislation
7 that proposes to create or amend a statutory appropriation. It shall, consistent with the guidelines in this section,
8 review each of these pieces of legislation. Its findings concerning the statutory appropriation must be contained
9 in the fiscal note accompanying that legislation. (Bracketed language in subsection (2) terminates June 30,
10 2027--sec. 10, Ch. 374, L. 2017.)"

11

12 **Section 9.** Section 17-2-124, MCA, is amended to read:

13 **"17-2-124. Disposition of money from certain designated license and other taxes.** (1) The state
14 treasurer shall deposit to the credit of the appropriate fund in accordance with the provisions of subsection (3)
15 all money received from the collection of taxes and fees.

16 (2) ~~The~~ Except as provided in 16-1-401, 16-1-406, and 16-1-411, the department of revenue shall
17 deposit to the credit of the state general fund all money received from the collection of license taxes and all net
18 revenue and receipts from all sources, other than certain fees, under Title 16, chapters 1 through 4 and 6.

19 (3) The distribution of tax and fee revenue must be made according to the provisions of the law
20 governing allocation of the tax or fee that were in effect for the period in which the tax or fee revenue was
21 recorded for accounting purposes. Tax revenue must be recorded as prescribed by the department of
22 administration, pursuant to 17-1-102(2) and (4), in accordance with generally accepted accounting principles.

23 (4) All refunds of taxes or fees must be attributed to the funds in which the taxes or fees are currently
24 being recorded. All refunds of interest and penalties must be attributed to the funds in which the interest and
25 penalties are currently being recorded."

26

27 **Section 10.** Section 17-7-502, MCA, is amended to read:

28 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
29 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
30 need for a biennial legislative appropriation or budget amendment.

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

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

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

6 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
7 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310;
8 10-3-312; 10-3-314; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110;
9 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222;
10 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604;
11 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622;
12 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409;
13 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 37-54-113; 39-71-503; 41-5-2011;
14 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-6-1304; 53-9-113; 53-24-108;
15 53-24-206; section 3; 60-11-115; 61-3-321; 61-3-415; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214;
16 75-11-313; 75-26-308; 76-13-150; 76-13-416; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416;
17 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505;
18 [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

19 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
20 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
21 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
22 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
23 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
24 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
25 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded
26 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and
27 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.
28 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under
29 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion
30 of 76-13-416 terminates June 30, 2019; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112

1 terminates on occurrence of contingency; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015,
 2 the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of
 3 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates
 4 June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of
 5 contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant
 6 to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec.
 7 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; pursuant to sec. 33, Ch. 457,
 8 L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the
 9 inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304
 10 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates
 11 June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant
 12 to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023;
 13 pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023, and pursuant to sec. 2,
 14 Ch. 340, L. 2017, and sec. 32, Ch. 429, L. 2017, is void for fiscal years 2018 and 2019; and pursuant to sec. 10,
 15 Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027.)"

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 17 **NEW SECTION. Section 11. Notification to tribal governments.** The secretary of state shall send
 18 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
 19 Chippewa tribe.

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 21 **NEW SECTION. Section 12. Codification instruction.** [Sections 1 through 3] are intended to be
 22 codified as an integral part of Title 60, chapter 2, and the provisions of Title 60, chapter 2, apply to [sections 1
 23 through 3].

24
 25 **NEW SECTION. Section 13. Effective date.** [This act] is effective July 1, 2019.

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 27 **NEW SECTION. Section 14. Applicability.** [This act] applies to the sale or distribution of liquor, beer,
 28 wine, and hard cider beginning on or after July 1, 2019.

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 30 **NEW SECTION. Section 15. Termination.** [This act] terminates June 30, 2029.

31 - END -