

HOUSE BILL NO. 656

INTRODUCED BY D. FERN

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A BILL FOR AN ACT ENTITLED: "AN ACT IMPOSING A TAX ON WATER BOTTLERS THAT CONSUME GROUND WATER; PROVIDING THAT THE TAX IS COLLECTED PER GALLON OF WATER PACKAGED FOR SALE OR DISTRIBUTION; PROVIDING FOR ADMINISTRATION OF THE TAX; PROVIDING PENALTIES; PROVIDING FOR THE DISTRIBUTION OF THE REVENUE; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 15-38-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Water bottler tax -- rate -- report.** (1) Each water bottler shall pay to the department a tax of 5 cents per gallon of water packaged for sale or distribution.

(2) A water bottler shall report to the department at the end of each calendar quarter the number of gallons of water packaged during the quarter. The water bottler may deduct from the number of gallons packages that were unsalable and destroyed or returned to the water bottler. 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 tax required to be collected under this section.

(3) (a) As used in [sections 1 through 7], "water bottler" means a person who packages water or a water-based product for human consumption and whose operation would be allowed to consume more than 100 acre-feet of ground water pursuant to a permit or an authorization under Title 85, chapter 2.

(b) The term does not include a municipal or county water facility.

NEW SECTION. **Section 2. Water bottler registration.** A water bottler shall register with the department. The registration must be made on forms supplied by the department at no charge. The registration must be renewed annually by a date established by the department.

NEW SECTION. **Section 3. Failure to pay or file -- penalty and interest.** (1) A water bottler who fails to report, fails to make a payment, or both, as required in [section 1], must be assessed a penalty as provided



1 in 15-1-216. The department may waive any penalty as provided in 15-1-206.

2 (2) (a) If a water bottler fails to file the report required in [section 1] or if the department determines that  
3 the report understates the amount of tax due, the department may determine the amount of the tax due and  
4 assess that amount against the water bottler. The provisions of 15-1-211 apply to an assessment by the  
5 department. The taxpayer may seek review of the assessment pursuant to 15-1-211.

6 (b) When a deficiency is determined and the tax becomes final, the department shall mail a notice and  
7 demand for payment to the water bottler. Penalty and interest must be added to the deficiency assessment as  
8 provided in 15-1-216.

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10 **NEW SECTION. Section 4. Audits -- records -- penalty and interest.** (1) The department may audit  
11 the books and records of a water bottler to ensure that the proper amount of tax imposed under [section 1] has  
12 been collected. The audit may be done on the premises of the water bottler or at another convenient location.

13 (2) The department may request that the water bottler provide the department with books, ledgers,  
14 registers, or other documents necessary to verify the correct amount of tax.

15 (3) The water bottler shall maintain, and make available for inspection by the department on request,  
16 books, ledgers, registers, or other documents showing collection of the tax required under [section 1] for the  
17 preceding 5 years.

18 (4) Except in the case of a person who, with intent to evade the tax, purposely or knowingly files a false  
19 or fraudulent return violating the provisions of this part, the amount of tax due under a return must be determined  
20 by the department within 5 years after the return is made, the department thereafter may not revise the return or  
21 recompute the tax due on the return, and no proceeding in court for collecting the tax may be instituted unless  
22 notice of additional tax is provided within the same period.

23 (5) An application for revision may be filed with the department by a water bottler within 5 years after the  
24 original due date of the return.

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26 **NEW SECTION. Section 5. Credit for overpayment -- interest.** (1) If the department determines that  
27 the amount of tax, penalty, or interest paid for a year is more than the amount due, the amount of the  
28 overpayment must be credited against any tax, penalty, or interest then due from the taxpayer and the balance  
29 must be refunded to the taxpayer, to the taxpayer's successor through reorganization, merger, or consolidation,  
30 or to the taxpayer's shareholders upon dissolution.

1 (2) Except as provided in subsection (3), interest is allowed on overpayments at the same rate as  
 2 charged on unpaid taxes, as provided in 15-1-216, from the due date of the return or from the date of  
 3 overpayment, whichever is later, to the date the department approves refunding or crediting of the overpayment.

4 (3) (a) Interest does not accrue during a period in which the processing of a claim for refund is delayed  
 5 more than 30 days because the taxpayer failed to furnish information requested by the department in order to  
 6 verify the amount of the overpayment.

7 (b) Interest is not allowed:

8 (i) if the overpayment is refunded within 6 months after the date the return is due or after the date the  
 9 return is filed, whichever is later; or

10 (ii) if the amount of interest is less than \$1.

11 (c) Only a payment made incident to a bona fide and orderly discharge of actual tax liability or one  
 12 reasonably assumed to be imposed by this chapter is considered an overpayment with respect to which interest  
 13 is allowable.

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 15 **NEW SECTION. Section 6. Rulemaking authority.** The department may adopt rules necessary to  
 16 implement and administer this part.

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 18 **NEW SECTION. Section 7. Disposition of funds.** Revenue collected under [sections 1 through 6] must  
 19 be deposited as follows:

20 (1) 35% to the account provided for in 15-38-302 for grants to conservation districts;

21 (2) 25% to the invasive species account provided for in 80-7-1004;

22 (3) 25% to the general fund; and

23 (4) 15% to the noxious weed account provided for in 80-7-816.

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 25 **Section 8.** Section 15-38-302, MCA, is amended to read:

26 **"15-38-302. Natural resources projects state special revenue account created -- revenue allocated**  
 27 **-- limitations on appropriations from account.** (1) There is a natural resources projects state special revenue  
 28 account within the state special revenue fund established in 17-2-102.

29 (2) There must be paid into the natural resources projects state special revenue account money  
 30 allocated from:

- 1 (a) the interest income of the resource indemnity trust fund under the provisions of 15-38-202;
- 2 (b) the resource indemnity and ground water assessment tax under the provisions of 15-38-106;
- 3 (c) the oil and natural gas production tax as provided in 15-36-331; ~~and~~
- 4 (d) the excess of the coal severance tax proceeds allocated by 85-1-603 to the renewable resource loan
- 5 debt service fund above debt service requirements as provided in and subject to the conditions of 85-1-619; and
- 6 (e) revenue from the water bottler tax provided for in [section 1].
- 7 (3) Appropriations may be made from the natural resources projects state special revenue account for
- 8 grants and loans for designated projects and the activities authorized in 85-1-602 and 90-2-1102."

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10 **NEW SECTION. Section 9. Codification instruction.** [Sections 1 through 7] are intended to be codified

11 as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 7].

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13 **NEW SECTION. Section 10. Effective date.** [This act] is effective on passage and approval.

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15 **NEW SECTION. Section 11. Applicability.** [This act] applies to water bottled on or after July 1, 2017.

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