

SENATE BILL NO. 353

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A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN AMBULANCE EXCISE TAX FOR ALL AMBULANCE SERVICES ABOVE A CERTAIN PERCENTAGE OF ~~ALLOWABLE RURAL MEDICARE COSTS~~ ALLOWABLE CHARGES; DEFINING AMBULANCE SERVICES; PROVIDING FOR A TAX BASED UPON THE ~~RECEIPTS~~ CERTAIN CHARGES; PROVIDING FOR AUDITS OF AMBULANCE PROVIDERS SUBJECT TO THE TAX; PROVIDING FOR DISTRIBUTION OF THE TAX; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Definitions.** For the purposes of [sections 1 through 6], the following definitions apply:

(1) ~~(A) "Ambulance" has the meaning provided in 50-6-302.~~ MEANS A PRIVATELY OR PUBLICLY OWNED AIRCRAFT THAT IS MAINTAINED AND USED FOR THE TRANSPORTATION OF PATIENTS.

(B) THE TERM DOES NOT INCLUDE:

(I) AN AIRCRAFT OWNED BY OR OPERATED UNDER THE DIRECT CONTROL OF THE UNITED STATES; OR

(II) AIR TRANSPORTATION SERVICES, SUCH AS CHARTER OR FIXED-BASED OPERATORS, THAT ARE REGULATED BY THE FEDERAL AVIATION ADMINISTRATION AND THAT OFFER NO SPECIAL MEDICAL SERVICES OR PROVIDE ONLY TRANSPORTATION TO PATIENTS OR PERSONS AT THE DIRECTION OR UNDER THE SUPERVISION OF AN INDEPENDENT PHYSICIAN.

(2) "Ambulance provider" means the owner or operator of an ambulance.

(3) "Ambulance services" means the emergency medical or nursing services for acute emergencies that are provided by an ambulance and for which medicare pays allowable amounts.

(4) "Patient" means an individual obtaining skilled ambulance services immediately prior to and during transport. The term includes newborn infants.

NEW SECTION. **Section 2. Excise tax for certain ambulance services -- disposition.** (1) ~~(A)~~ Each ambulance provider in the state shall pay to the department of administration an excise tax of 12% ~~on all~~ ANYTIME



1 ambulance services charged to a patient for any charges ARE BILLED THAT ARE in excess of 300% of allowable
 2 275% OF RURAL medicare ALLOWABLE charges.

3 (B) THE EXCISE TAX APPLIES TO ALL BILLED CHARGES OF A TRANSPORT THAT MEET THE CRITERIA IN SUBSECTION
 4 (1)(A).

5 (2) The excise tax is imposed on the ambulance provider for any ambulance service that picks up a
 6 patient inside the state and ~~is based on mileage in the state and ambulance services provided in the state,~~
 7 ~~including the lift-off charges for an air ambulance picking up a patient in the state~~ MAY NOT BE PASSED THROUGH
 8 IN OTHER CHARGES AS A RECOVERABLE COST.

9 (3) An ambulance provider that fails to file the tax imposed in subsection (1) is subject to the penalty and
 10 interest provisions in 15-1-216. The department of administration shall notify the department of revenue of the
 11 ambulance provider's failure to file.

12 (4) All revenue generated from the excise tax, including penalty and interest if imposed by the
 13 department of revenue under subsection (3), must be deposited in the state special revenue fund for use of the
 14 health care and benefits division of the department of administration. The money is subject to appropriation by
 15 the legislature only for the purposes of subsection (5).

16 (5) Money generated by the excise tax must be used for:

17 (a) grants to establish low-cost air ambulance alternatives in high-cost areas, as determined by the
 18 department of administration; and

19 (b) grants to citizens of this state who have been impacted by large balance bills resulting from
 20 ambulance services not covered by insurance regulated under Title 33 or by health plans covered under Title 2
 21 or 20.

22
 23 NEW SECTION. Section 3. Reporting of ambulance services. (1) An ambulance provider shall file
 24 with the department of administration on a quarterly basis:

25 (a) the number of ambulance transports completed by the ambulance in the quarter for which the
 26 charges exceeded ~~300% of the allowable~~ 275% OF THE RURAL medicare rate ALLOWABLE CHARGES; and

27 (b) the total medical and operational charges imposed for each ambulance transport, including mileage
 28 in the state if mileage is part of the charge. For air ambulances the operational charges also include the lift-off
 29 rate.

30 (2) The report in subsection (1) must be in the form prescribed by the department of administration and

1 accompanied by a payment of the tax required under [section 2].

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3 **NEW SECTION. Section 4. Audit authority -- records.** (1) The department of administration may audit
4 the records and other documents of any ambulance provider to ensure that the proper tax has been collected as
5 provided under [section 2].

6 (2) The department may:

7 (a) require the ambulance provider to provide records and other documentation, including books,
8 ledgers, and registers, necessary for the department to verify the proper amount of the tax.

9 (b) examine or cause to have examined by a designated agent or representative any books, papers,
10 records, or memoranda bearing on the matters required to be included in the report required under [section 3];

11 (c) require the attendance of any officer or employee of the entity rendering the report under [section 3]
12 or the attendance of any other person assigned to developing the report and having relevant knowledge of the
13 report; and

14 (d) take testimony and require production of any other material necessary to determine the amount of
15 tax due.

16 (3) An ambulance provider shall maintain and make available for inspection by the department of
17 administration sufficient records and other documentation to demonstrate the ambulance charges subject to the
18 tax imposed under [section 2]. The ambulance provider shall maintain the records for at least 5 years from the
19 date the report is due.

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21 **NEW SECTION. Section 5. Deficiency assessment -- hearing -- penalty and interest.** (1) If the
22 department of administration determines that the amount of tax due under [section 2] is greater than the amount
23 disclosed by the report provided under [section 3], the department of administration shall mail to the ambulance
24 provider a notice of the additional amount of expected assessment.

25 (2) Within 30 days of the mailing of the notice, the ambulance provider may file with the department of
26 administration a written protest against the proposed additional tax. The protest must set forth the grounds for
27 the protest and may request an oral hearing or an opportunity to present additional evidence relating to its tax
28 liability.

29 (3) If a protest is not filed, the amount of the additional tax that is proposed to be assessed becomes final
30 upon expiration of the 30-day period.

1 (4) If a protest is filed, the department of administration shall reconsider the proposed assessment and,
2 upon the ambulance provider's request, shall grant the ambulance provider an oral hearing. After consideration
3 of the protest and the evidence presented at an oral hearing, the department of administration's action on the
4 protest is final upon the mailing of notice of its action to the ambulance provider.

5 (5) If a deficiency is detected and a final tax determined, the department of administration shall mail
6 notice and demand for payment to the ambulance provider. Penalty and interest must be added to any deficiency
7 assessment in the manner provided in 15-1-216 from the date specified in the deficiency letter for payment of the
8 tax.

9 (6) A certificate of mailing of the notice by the department of administration is prima facie evidence of
10 notice and of the date to be used for computation and levy of the deficiency amount.

11 (7) An ambulance provider may appeal a determination by the department of administration under this
12 section to the first judicial district court.

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14 **NEW SECTION. Section 6. Rulemaking authority.** The department of administration shall adopt rules
15 to implement and administer [sections 1 through 6]. The department of administration shall work with the
16 department of revenue regarding the tax imposed under [section 2] and with the department of public health and
17 human services on matters related to ambulance reporting requirements.

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19 **NEW SECTION. Section 7. Codification instruction.** [Sections 1 through 6] are intended to be codified
20 as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 6].

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22 **NEW SECTION. Section 8. Severability.** If a part of [this act] is invalid, all valid parts that are severable
23 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
24 remains in effect in all valid applications that are severable from the invalid applications.

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26 **NEW SECTION. Section 9. Effective date.** [This act] is effective on passage and approval.

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