

SENATE BILL NO. 7

INTRODUCED BY B. HOVEN

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ACCOMMODATIONS TAXES; REVISING DEFINITIONS FOR THE LODGING FACILITY USE TAX TO CHANGE THE BASIS OF THE TAX FROM THE AMOUNT COLLECTED BY THE FACILITY TO THE AMOUNT PAID BY THE USER; AMENDING SECTIONS 15-65-101, 15-65-111, 15-65-112, 15-65-113, 15-65-114, 15-65-115, AND 76-8-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 15-65-101, MCA, is amended to read:

**"15-65-101. Definitions.** For purposes of this part, the following definitions apply:

(1) ~~"Accommodation charge" means the fee charged by the owner or operator of a facility for use of the facility for lodging, including bath house facilities, but excluding charges for meals, transportation, entertainment, or any other similar charges. "Accommodations" has the meaning provided in 15-68-101.~~

(2) (a) ~~"Campground" means a place, publicly or privately owned, used for public camping where persons may camp, secure tents, or park individual recreational vehicles for camping and sleeping purposes.~~

~~———— (b) The term does not include that portion of a trailer court, trailer park, or mobile home park intended for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or more has the meaning provided in 15-68-101.~~

(3) "Council" means the tourism advisory council established in 2-15-1816.

(4) (a) ~~"Facility" means a building containing individual sleeping rooms or suites, providing overnight lodging facilities for periods of less than 30 days to the general public for compensation. The term includes a facility represented to the public as a hotel, motel, campground, resort, dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodginghouse, or bed and breakfast facility.~~

~~———— (b) The term does not include any health care facility, as defined in 50-5-101, or any facility owned by a corporation organized under Title 35, chapter 2 or 3, that is used primarily by persons under the age of 18 years for camping purposes, any hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose average~~

1 ~~daily accommodation charge for single occupancy does not exceed 60% of the amount authorized under~~  
 2 ~~2-18-501 for the actual cost of lodging for travel within the state of Montana, or any other facility that is rented~~  
 3 ~~solely on a monthly basis or for a period of 30 days or more.~~

4 ~~(5)(4)~~ "Indian tourism region" includes the area recognized as being historically associated with the  
 5 seven federally recognized reservations in Montana and the Little Shell Chippewa tribe.

6 ~~(6)(5)~~ "Nonprofit convention and visitors bureau" means a nonprofit corporation organized under  
 7 Montana law and recognized by a majority of the governing body in the city, consolidated city-county, resort area,  
 8 or resort area district in which the bureau is located.

9 (6) "Person" has the meaning provided in 15-68-101.

10 (7) "Purchaser" has the meaning provided in 15-68-101.

11 ~~(7)(8)~~ "Regional nonprofit tourism corporation" means a nonprofit corporation organized under Montana  
 12 law and recognized by the council as the entity for promoting tourism within one of several regions established  
 13 by executive order of the governor.

14 ~~(8)(9)~~ "Resort area" means an area established pursuant to 7-6-1508.

15 ~~(9)(10)~~ "Resort area district" has the meaning provided in 7-6-1501.

16 (11) "Sales price" has the meaning provided in 15-68-101.

17 (12) "Seller" has the meaning provided in 15-68-101."

18

19 **Section 2.** Section 15-65-111, MCA, is amended to read:

20 **"15-65-111. Tax rate.** (1) There is imposed on the user of a facility accommodations a tax at a rate equal  
 21 to 4% of the ~~accommodation charge collected by the facility~~ sales price paid by the purchaser.

22 (2) ~~Accommodation charges do~~ Sales price does not include charges for ~~rooms~~ accommodations used  
 23 for purposes other than lodging."

24

25 **Section 3.** Section 15-65-112, MCA, is amended to read:

26 **"15-65-112. Collection and reporting.** (1) ~~The owner or operator of a facility~~ The seller of  
 27 accommodations shall collect the tax imposed by 15-65-111.

28 (2) ~~The owner or operator~~ seller shall report to the department of revenue, at the end of each calendar  
 29 quarter, the gross receipts collected during that quarter attributable to ~~accommodation charges for the use of the~~  
 30 facility the sales price paid by the purchaser. The report is due on or before the last day of the month following

1 the end of the calendar quarter and must be accompanied by a payment in an amount equal to the tax required  
2 to be collected under subsection (1)."

3

4 **Section 4.** Section 15-65-113, MCA, is amended to read:

5 **"15-65-113. Audits -- records.** (1) The department of revenue may audit the books and records of any  
6 ~~owner or operator~~ seller to ensure that the proper amount of tax imposed by 15-65-111 has been collected. An  
7 audit may be done on the premises of the ~~owner or operator of a facility~~ seller or at any other convenient location.

8 (2) The department may request the ~~owner or operator of a facility~~ seller to provide the department with  
9 books, ledgers, registers, or other documents necessary to verify the correct amount of tax.

10 (3) The ~~owner or operator of a facility~~ seller shall maintain and have available for inspection by the  
11 department books, ledgers, registers, or other documents showing the ~~collection of accommodation charges~~ sales  
12 price and tax collections for the preceding 5 years.

13 (4) Except in the case of a person who, with intent to evade the tax, purposely or knowingly files a false  
14 or fraudulent return violating the provisions of this part, the amount of tax due under any return must be  
15 determined by the department within 5 years after the return is made, and the department thereafter is barred  
16 from revising any such return or recomputing the tax due thereon, and no proceeding in court for the collection  
17 of the tax may be instituted unless notice of any additional tax is provided within such period.

18 (5) An application for revision may be filed with the department by ~~an owner or operator of a facility~~ a  
19 seller within 5 years from the original due date of the return."

20

21 **Section 5.** Section 15-65-114, MCA, is amended to read:

22 **"15-65-114. Registration number Seller's permit -- application to department.** ~~(1) The owner or~~  
23 ~~operator of a facility shall apply to the department of revenue for a registration number.~~

24 ~~—— (2) The application must be made on a form provided by the department.~~

25 ~~—— (3) Upon completion of the application and delivery of the application to the department, the department~~  
26 ~~must assign a registration number to the owner, operator, or facility, as appropriate. The seller of~~  
27 accommodations must obtain a seller's permit before engaging in business within the state, in accordance with  
28 15-68-401."

29

30 **Section 6.** Section 15-65-115, MCA, is amended to read:

1           **"15-65-115. Failure to pay or file -- penalty and interest -- review -- interest.** (1) ~~An owner or operator~~  
 2 ~~of a facility~~ A seller who fails to file the report ~~as~~ required by 15-65-112 must be assessed a penalty as provided  
 3 in 15-1-216. The department may waive any penalty as provided in 15-1-206.

4           (2) ~~An owner or operator of a facility~~ A seller who fails to make payment or fails to report and make  
 5 payment as required by 15-65-112 must be assessed penalty and interest as provided in 15-1-216. The  
 6 department may waive any penalty pursuant to 15-1-206.

7           (3) (a) ~~If an owner or operator of a facility~~ a seller fails to file the report required by 15-65-112 or if the  
 8 department determines that the report understates the amount of tax due, the department may determine the  
 9 amount of the tax due and assess that amount against the ~~owner or operator~~ seller. The provisions of 15-1-211  
 10 apply to any assessment by the department. The ~~taxpayer~~ seller may seek review of the assessment pursuant  
 11 to 15-1-211.

12           (b) When a deficiency is determined and the tax becomes final, the department shall mail a notice and  
 13 demand for payment to the ~~owner or operator~~ seller. Penalty and interest must be added to any deficiency  
 14 assessment as provided in 15-1-216."

15

16           **Section 7.** Section 76-8-103, MCA, is amended to read:

17           **"76-8-103. Buildings for lease or rent -- exemptions.** (1) A building created for lease or rent on a  
 18 single tract is exempt from the provisions of this part if:

19           (a) the building is in conformance with applicable zoning regulations adopted pursuant to Title 76,  
 20 chapter 2, parts 1 through 3, provided that the zoning contains the elements of 76-8-107; or

21           (b) when applicable zoning regulations are not in effect:

22           (i) the building was in existence or under construction before September 1, 2013;

23           (ii) ~~the building is a facility~~ buildings are accommodations as defined in ~~15-65-101~~ 15-68-101 that ~~is~~ are  
 24 subject to the ~~lodging facility use~~ tax under Title 15, chapter 65, except for recreational camping vehicles or  
 25 mobile home parks;

26           (iii) the building is created for lease or rent for farming or agricultural purposes;

27           (iv) the building is not served by water and wastewater and will not be leased or rented;

28           (v) the building is served by water and wastewater and the landowner records a notarized declaration  
 29 with the clerk and recorder of the county in which the property is located stating that the proposed building will  
 30 not be leased or rented. The declaration recorded pursuant to this subsection (1)(b)(v) runs with the land and is

1 binding on the landowner and all subsequent landowners and successors in interest to the property. The  
2 declaration must include but is not limited to:

3 (A) the name and address of the landowner;

4 (B) a legal description of the tract upon which the proposed building will be located; and

5 (C) a specific description of the building on the tract of record.

6 (2) Any building that is exempt under subsection (1) from the provisions of this part and that is or will be  
7 served by water or wastewater must be in compliance with the provisions of 76-8-106.

8 (3) The exemption provided in subsection (1)(b)(i) is limited to the first three buildings created for lease  
9 or rent on a single tract."

10

11 NEW SECTION. **Section 8. Effective date.** [This act] is effective on passage and approval.

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