

HOUSE BILL NO. 709

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A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE CRIME OF HUMAN SMUGGLING; PROVIDING PENALTIES; PROVIDING TAX PENALTIES FOR CERTAIN ENTITIES; PROVIDING FOR FORFEITURE OF PROPERTY; AMENDING SECTIONS 15-6-201 AND 15-31-102, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**NEW SECTION. Section 1. Human smuggling.** (1) A person who ~~purposely or~~ knowingly ~~and willfully~~ transports into or within this state or harbors an individual whom the person knows, or reasonably should know, has entered the United States in violation of law or has not complied with the conditions of the person's immigration status that were set at the time of the person's entry into the United States by the United States department of homeland security commits the offense of human smuggling.

(2) (a) A person convicted of human smuggling shall be imprisoned in the state prison for a term of not less than 2 years or more than 20 years, fined in the amount of \$400,000, or both.

(b) An entity that is convicted of human smuggling under subsection (1) is not eligible for tax exemptions as provided in 15-6-201 and 15-31-102.

(3) (a) Property is subject to criminal forfeiture if it is used or intended for use in violation of subsection (1).

(b) The following property is subject to criminal forfeiture under this section:

(i) money, raw materials, products, equipment, and other property of any kind;

(ii) property used or intended for use as a container for property enumerated in subsection

(3)(b)(i);

(iii) except as provided in subsection (4), a conveyance, including an aircraft, vehicle, or vessel;

(iv) books, records, research products and materials, formulas, microfilm, tapes, and data;

(v) anything of value furnished or intended to be furnished in exchange for human smuggling in violation of subsection (1) and all proceeds traceable to the exchange;

(vi) negotiable instruments, securities, and weapons; and

(vii) personal property constituting or derived from proceeds obtained directly or indirectly from human smuggling in violation of subsection (1).

(4) A conveyance is not subject to criminal forfeiture under this section unless the owner or other person in charge of the conveyance knowingly used the conveyance or knowingly consented to its use for the purposes described in subsection (3)(a).

(5) Criminal forfeiture under this section of property that is encumbered by a bona fide security interest is subject to that interest if the secure party did not use or consent to the use of the property for the purposes described in subsection (3)(a).

(6) Property subject to criminal forfeiture under this section may be seized under the following circumstances:

(a) A peace officer who has probable cause to make an arrest for a violation as described in subsection (3)(a) may seize a conveyance obtained with the proceeds of the violation or used to facilitate the violation and shall immediately deliver the conveyance to the peace officer's law enforcement agency to be held as evidence until a criminal forfeiture is declared or a release is ordered.

(b) Property subject to criminal forfeiture under this section may be seized by a peace officer under a search warrant issued by a court having jurisdiction over the property.

(c) Seizure without a warrant may be made if:

(i) the seizure is incident to an arrest or a search under a search warrant issued for another purpose;

(ii) the property was the subject of a prior judgment in favor of the state in a criminal proceeding or a criminal forfeiture proceeding under the provisions of Title 44, chapter 12, or this section;

(iii) a peace officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(iv) a peace officer has probable cause to believe that the property was used or is intended to be

used under the circumstances described in subsection (3)(a).

(7) A forfeiture proceeding under subsection (3) must be commenced within 45 days of the seizure of the property involved.

(8) The procedure for forfeiture proceedings in Title 44, chapter 12, part 2, applies to property seized pursuant to this section.

(9) Upon conviction, the property subject to criminal forfeiture is forfeited to the state and proceeds from the sale of property seized under this section must be distributed to the holders of security interests who have presented proper proof of their claims up to the amount of their interests in the property. The remainder, if any, must be deposited in the crime victims compensation account provided for in 53-9-113.

**Section 2.** Section 15-6-201, MCA, is amended to read:

**"15-6-201. Governmental, charitable, and educational categories -- exempt property.** (1) The following categories of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

(A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or

(B) as provided in 15-24-1103;

(ii) the state, counties, cities, towns, and school districts;

(iii) irrigation districts organized under the laws of Montana and not operated for gain or profit;

(iv) municipal corporations;

(v) public libraries;

(vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

(vii) special districts created pursuant to Title 7, chapter 11, part 10; and

(viii) subject to subsection (2), federally recognized Indian tribes in the state if the property is located entirely within the exterior boundaries of the reservation of the tribe that owns the property and the property is used exclusively by the tribe for essential government services. Essential government services are tribal government administration, fire, police, public health, education, recreation, sewer, water, pollution control,

public transit, and public parks and recreational facilities.

(b) buildings and furnishings in the buildings that are owned by a church and used for actual religious worship or for residences of the clergy, not to exceed one residence for each member of the clergy, together with the land that the buildings occupy and adjacent land reasonably necessary for convenient use of the buildings, which must be identified in the application, and all land and improvements used for educational or youth recreational activities if the facilities are generally available for use by the general public but may not exceed 15 acres for a church or 1 acre for a clergy residence after subtracting any area required by zoning, building codes, or subdivision requirements;

(c) land and improvements upon the land, not to exceed 15 acres, owned by a federally recognized Indian tribe when the land has been set aside by tribal resolution and designated as sacred land to be used exclusively for religious purposes;

(d) property owned and used exclusively for agricultural and horticultural societies not operated for gain or profit;

(e) property, not to exceed 80 acres, which must be legally described in the application for the exemption, used exclusively for educational purposes, including dormitories and food service buildings for the use of students in attendance and other structures necessary for the operation and maintenance of an educational institution that:

(i) is not operated for gain or profit;

(ii) has an attendance policy; and

(iii) has a definable curriculum with systematic instruction;

(f) property, of any acreage, owned by a tribal corporation created for the sole purpose of establishing schools, colleges, and universities if the property meets the requirements of subsection (1)(e);

(g) property used exclusively for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.

(h) property that is:

(i) (A) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20,

1 or 21; or

2 (B) owned by a federally recognized Indian tribe within the state and set aside by tribal resolution;

3 and

4 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent  
5 care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

6 (iii) not maintained and not operated for gain or profit;

7 (i) subject to subsection (2), property that is owned or property that is leased from a federal, state,  
8 or local governmental entity by institutions of purely public charity if the property is directly used for purely  
9 public charitable purposes;

10 (j) evidence of debt secured by mortgages of record upon real or personal property in the state of  
11 Montana;

12 (k) public museums, art galleries, zoos, and observatories that are not operated for gain or profit;

13 (l) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association  
14 or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the  
15 irrigation of agricultural land;

16 (m) the right of entry that is a property right reserved in land or received by mesne conveyance  
17 (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another  
18 to explore, prospect, or dig for oil, gas, coal, or minerals;

19 (n) (i) property that is owned and used by a corporation or association organized and operated  
20 exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with  
21 physical or mental impairments that constitute or result in substantial impediments to employment and that is  
22 not operated for gain or profit; and

23 (ii) subject to subsection (2)(e), property that is owned and used by an organization owning and  
24 operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or  
25 profit;

26 (o) property owned by a nonprofit corporation that is organized to provide facilities primarily for  
27 training and practice for or competition in international sports and athletic events and that is not held or used for  
28 private or corporate gain or profit. For purposes of this subsection (1)(o), "nonprofit corporation" means an

1 organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated  
2 and admitted under the Montana Nonprofit Corporation Act.

3 (p) property rented or leased to a municipality or taxing unit for less than \$100 a year and that is  
4 used for public park, recreation, or landscape beautification purposes. For the purposes of this subsection  
5 (1)(p), "property" includes land but does not include buildings. The exemption must be applied for by the  
6 municipality or taxing unit, and not more than 10 acres within the municipality or taxing unit may be exempted.

7 (2) (a) (i) For the purposes of tribal property under subsection (1)(a)(viii), the property subject to  
8 exemption may not be:

9 (A) operated for gain or profit;

10 (B) held under contract to operate, lease, or sell by a taxable individual;

11 (C) used or possessed exclusively by a taxable individual or entity; or

12 (D) held by a tribal corporation except for educational purposes as provided in subsection (1)(f).

13 (ii) For the purposes of parks and recreational facilities under subsection (1)(a)(viii), the property  
14 must be:

15 (A) set aside by tribal resolution and designated as park land, not to exceed 640 acres, or be  
16 designated as a recreational facility; and

17 (B) open to the general public.

18 (b) For the purposes of subsection (1)(b), the term "clergy" means, as recognized under the  
19 federal Internal Revenue Code:

20 (i) an ordained minister, priest, or rabbi;

21 (ii) a commissioned or licensed minister of a church or church denomination that ordains ministers  
22 if the person has the authority to perform substantially all the religious duties of the church or denomination;

23 (iii) a member of a religious order who has taken a vow of poverty; or

24 (iv) a Christian Science practitioner.

25 (c) For the purposes of subsection (1)(i):

26 (i) the term "institutions of purely public charity" includes any organization that meets the following  
27 requirements:

28 (A) The organization offers its charitable goods or services to persons without regard to race,

1 religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3),  
2 Internal Revenue Code, as amended.

3 (B) The organization accomplishes its activities through absolute gratuity or grants. However, the  
4 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public  
5 performances or entertainment or by other similar types of fundraising activities.

6 (C) The organization has not been convicted under [section 1].

7 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is  
8 used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the  
9 Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file  
10 annually with the department a copy of its federal tax return reporting any unrelated business taxable income  
11 received by the charity during the tax year, together with a statement indicating whether the exempt property  
12 was used to generate any unrelated business taxable income.

13 (iii) up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase  
14 even if the property must be improved before it can directly be used for its intended charitable purpose. If the  
15 property is not directly used for the charitable purpose within 8 years of receiving an exemption under this  
16 section or if the property is sold or transferred before it entered direct charitable use, the exemption is revoked  
17 and the property is taxable. In addition to taxes due for the first year that the property becomes taxable, the  
18 owner of the property shall pay an amount equal to the amount of the tax due that year times the number of  
19 years that the property was tax-exempt under this section. The amount due is a lien upon the property and  
20 when collected must be distributed by the treasurer to funds and accounts in the same ratio as property tax  
21 collected on the property is distributed. At the time the exemption is granted, the department shall file a notice  
22 with the clerk and recorder in the county in which the property is located. The notice must indicate that an  
23 exemption pursuant to this section has been granted. The notice must describe the penalty for default under  
24 this section and must specify that a default under this section will create a lien on the property by operation of  
25 law. The notice must be on a form prescribed by the department.

26 (iv) not more than 160 acres may be exempted by a purely public charity under any exemption  
27 originally applied for after December 31, 2004. An application for exemption under this section must contain a  
28 legal description of the property for which the exemption is requested.

(d) For the purposes of subsection (1)(k), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property owned by the public museum, art gallery, zoo, or observatory that is reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

- (i) actually used by the governmental entity or nonprofit organization as a part of its public display;
- (ii) held for future display; or
- (iii) used to house or store a public display.

(e) For the purposes of facilities for the care of the retired, aged, or chronically ill under subsection (1)(n)(ii), the terms "retired" and "aged" mean an individual who satisfies the age and gross household income limitations of 15-30-2338. The property owner shall verify age and gross household income requirements on a form prescribed by the department. Applicants are subject to the false swearing penalties established in 45-7-202."

**Section 3.** Section 15-31-102, MCA, is amended to read:

**"15-31-102. Organizations exempt from tax -- unrelated business income not exempt.** (1) Except as provided in ~~subsection~~ subsections (3) and (4), there may not be taxed under this title any income received by any:

- (a) labor, agricultural, or horticultural organization;
- (b) fraternal beneficiary, society, order, or association operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and providing for the payment of life, sick, accident, or other benefits to the members of the society, order, or association or their dependents;
- (c) cemetery company owned and operated exclusively for the benefit of its members;
- (d) corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private



1 stockholder or individual;

2 (e) business league, chamber of commerce, or board of trade not organized for profit, no part of  
3 the net income of which inures to the benefit of any private stockholder or individual;

4 (f) civic league or organization not organized for profit but operated exclusively for the promotion  
5 of social welfare;

6 (g) club organized and operated exclusively for pleasure, recreation, and other nonprofitable  
7 purposes, no part of the net income of which inures to the benefit of any private stockholder or members;

8 (h) farmers' or other mutual hail, cyclone, or fire insurance company, mutual ditch or irrigation  
9 company, mutual or cooperative telephone company, or similar organization of a purely local character, the  
10 income of which consists solely of assessments, dues, and fees collected from members for the sole purpose  
11 of meeting its expenses;

12 (i) cooperative association or corporation engaged in the business of operating a rural  
13 electrification system or systems for the transmission or distribution of electrical energy on a cooperative basis;

14 (j) corporations or associations organized for the exclusive purpose of holding title to property,  
15 collecting income from the property, and turning over the entire amount of the income, less expenses, to an  
16 organization that itself is exempt from the tax imposed by this title;

17 (k) wool and sheep pool, which is an association owned and operated by agricultural producers  
18 organized to market association members' wool and sheep, the income of which consists solely of  
19 assessments, dues, and fees collected from members for the sole purpose of meeting its expenses. Income, for  
20 this purpose, does not include expenses and money distributed to members contributing wool and sheep.

21 (l) corporation that qualifies as a domestic international sales corporation (DISC) under the  
22 provisions of section 991, et seq., of the Internal Revenue Code, 26 U.S.C. 991, et seq., and that has in effect  
23 for the entire taxable year a valid election under federal law to be treated as a DISC. If a corporation makes that  
24 election under federal law, each person who at any time is a shareholder of the corporation is subject to  
25 taxation under Title 15, chapter 30, on the earnings and profits of this DISC in the same manner as provided by  
26 federal law for all periods for which the election is effective.

27 (m) farmers' market association not organized for profit, no part of the net income of which inures to  
28 the benefit of any member, but that is organized for the sole purpose of providing for retail distribution of

1 homegrown vegetables, handicrafts, and other products either grown or manufactured by the seller;

2 (n) common trust fund as defined in section 584(a) of the Internal Revenue Code, 26 U.S.C.

3 584(a).

4 (2) In determining the corporate income tax imposed under this part, there may not be included  
5 any earnings derived from any public utility managed or operated by any subdivision of the state or from the  
6 exercise of any governmental function.

7 (3) Any unrelated business taxable income, as defined by section 512 of the Internal Revenue  
8 Code, 26 U.S.C. 512, as amended, earned by any exempt corporation resulting in a federal unrelated business  
9 income tax liability of more than \$100 must be taxed as other corporation income is taxed under this title. An  
10 exempt corporation subject to taxation on unrelated business income under this section shall file a copy of its  
11 federal exempt organization business income tax return on which it reports its unrelated business income with  
12 the department.

13 (4) Any income when an entity provided for in this section has been convicted of committing an  
14 offense under [section 1] must be taxed as other corporation income is taxed under this title."

15  
16 NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an  
17 integral part of Title 45, chapter 5, part 7, and the provisions of Title 45, chapter 5, part 7, apply to [section 1].

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19 NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 2025.

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