

SENATE BILL No. 331

March 1, 2007, Introduced by Senator SWITALSKI and referred to the Committee on Finance.

A bill to amend 1941 PA 122, entitled

"An act to establish the revenue collection duties of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to regulate the importation, stamping, and disposition of certain tobacco products; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; to prescribe penalties and provide remedies; and to declare the effect of this act,"

by amending section 28 (MCL 205.28), as amended by 2003 PA 114, and by adding section 3b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SEC. 3B. (1) THE DEPARTMENT OF TREASURY MAY DISCLOSE A LIST OF

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1 ALL TAXPAYERS THAT ARE DELINQUENT IN THE PAYMENT OF TAX LIABILITIES
2 COLLECTED BY THE DEPARTMENT. THE LIST MAY INCLUDE THOSE TAXPAYERS
3 WITH ACCOUNT BALANCES FOR ALL TAXES COLLECTED BY THE DEPARTMENT
4 INCLUDING PENALTIES AND INTEREST TOTALING GREATER THAN \$25,000.00
5 FOR A PERIOD IN EXCESS OF 90 DAYS FROM THE DATE OF THE FINAL TAX
6 ASSESSMENT. THE LIST MAY CONTAIN THE NAME, LAST KNOWN ADDRESS, AND
7 TOTAL ACCOUNT BALANCE OF EACH DELINQUENT TAXPAYER AND, IN THE CASE
8 OF A BUSINESS TAXPAYER, MAY INCLUDE THE NAME OF ANY TAXPAYERS OR
9 INDIVIDUALS ASSESSED A LIABILITY UNDER SECTION 27A(1) OR (5).

10 (2) NOT LESS THAN 90 DAYS BEFORE THE DISCLOSURE OF THE NAME OF
11 A DELINQUENT TAXPAYER PRESCRIBED IN SUBSECTION (1), THE DEPARTMENT
12 SHALL MAIL A WRITTEN NOTICE TO THE DELINQUENT TAXPAYER AT HIS OR
13 HER LAST KNOWN ADDRESS INFORMING THE TAXPAYER OF THE TOTAL ACCOUNT
14 BALANCE AND THE INTENDED DISCLOSURE OF THE DELINQUENCY. IF THE
15 ACCOUNT BALANCE HAS NOT BEEN PAID WITHIN 60 DAYS AFTER THE NOTICE
16 WAS MAILED AND THE TAXPAYER HAS NOT, SINCE THE MAILING OF THE
17 NOTICE, EITHER ENTERED INTO IN A WRITTEN AGREEMENT WITH THE
18 DEPARTMENT FOR PAYMENT OF THE DELINQUENCY OR CORRECTED A DEFAULT IN
19 AN EXISTING AGREEMENT TO THE SATISFACTION OF THE DEPARTMENT, THE
20 DEPARTMENT MAY DISCLOSE THE TAXPAYER IN THE LIST OF DELINQUENT
21 TAXPAYERS.

22 (3) UNPAID TAXES MAY NOT BE DISCLOSED IF 1 OR MORE OF THE
23 FOLLOWING APPLY:

24 (A) A WRITTEN AGREEMENT FOR PAYMENT EXISTS WITHOUT DEFAULT
25 BETWEEN THE TAXPAYER AND THE DEPARTMENT.

26 (B) THE TAX LIABILITY IS THE SUBJECT OF AN INFORMAL
27 CONFERENCE, ADMINISTRATIVE REVIEW, OR JUDICIAL REVIEW PROVIDED FOR

1 IN THIS ACT, OR AN APPEAL OF ANY OF THESE PROCEEDINGS.

2 (C) THE DEPARTMENT HAS RECEIVED WRITTEN NOTICE THAT THE
3 TAXPAYER HAS FILED FOR BANKRUPTCY PROTECTION.

4 (4) THE LIST MAY BE AVAILABLE FOR PUBLIC INSPECTION AT THE
5 DEPARTMENT AND BY OTHER MEANS OF PUBLICATION, INCLUDING THE
6 INTERNET. IN THE CASE OF A BUSINESS TAXPAYER, THE DEPARTMENT MAY
7 POST WRITTEN NOTICE OF THE DELINQUENCY IN A CONSPICUOUS LOCATION AT
8 THE TAXPAYER'S BUSINESS PREMISES.

9 (5) THE NAME OF A TAXPAYER SHALL BE REMOVED WITHIN 30 DAYS
10 AFTER THE PAYMENT OF THE DEBT OR IF THE TAXPAYER OTHERWISE MEETS 1
11 OF THE CONDITIONS DESCRIBED IN SUBSECTION (3).

12 (6) ANY DISCLOSURE MADE BY AN EMPLOYEE OF THE DEPARTMENT IN A
13 GOOD FAITH EFFORT TO COMPLY WITH THIS SECTION SHALL NOT BE
14 CONSIDERED A VIOLATION OF ANY STATUTE PROHIBITING DISCLOSURE OF
15 TAXPAYER INFORMATION INCLUDING SECTION 28(1)(F).

16 Sec. 28. (1) The following conditions apply to all taxes
17 administered under this act unless otherwise provided for in the
18 specific tax statute:

19 (a) Notice, if required, shall be given either by personal
20 service or by certified mail addressed to the last known address of
21 the taxpayer. Service upon the department may be made in the same
22 manner.

23 (b) An injunction shall not issue to stay proceedings for the
24 assessment and collection of a tax.

25 (c) In addition to the mode of collection provided in this
26 act, the department may institute an action at law in any county in
27 which the taxpayer resides or transacts business.

1 (d) The state treasurer may request in writing information or
2 records in the possession of any other department, institution, or
3 agency of state government for the performance of duties under this
4 act. Departments, institutions, or agencies of state government
5 shall furnish the information and records upon receipt of the state
6 treasurer's request. Upon request of the state treasurer, any
7 department, institution, or agency of state government shall hold a
8 hearing under the administrative procedures act of 1969, 1969 PA
9 306, MCL 24.201 to 24.328, to consider withholding a license or
10 permit of a person for nonpayment of taxes or accounts collected
11 under this act.

12 (e) Except as otherwise provided in section 30c, the state
13 treasurer or an employee of the department shall not compromise or
14 reduce in any manner the taxes due to or claimed by this state or
15 unpaid accounts or amounts due to any department, institution, or
16 agency of state government. This subdivision does not prevent a
17 compromise of interest or penalties, or both.

18 (f) Except as otherwise provided in this subdivision, an
19 employee, authorized representative, or former employee or
20 authorized representative of the department or anyone connected
21 with the department shall not divulge any facts or information
22 obtained in connection with the administration of a tax or
23 information or parameters that would enable a person to ascertain
24 the audit selection or processing criteria of the department for a
25 tax administered by the department. An employee or authorized
26 representative shall not willfully inspect any return or
27 information contained in a return unless it is appropriate for the

1 proper administration of a tax law administered under this act. A
2 person may disclose information described in this subdivision if
3 the disclosure is **PERMITTED UNDER SECTION 3B OR IS** required for the
4 proper administration of a tax law administered under this act or
5 the general property tax act, 1893 PA 206, MCL 211.1 to 211.157,
6 pursuant to a judicial order sought by an agency charged with the
7 duty of enforcing or investigating support obligations pursuant to
8 an order of a court in a domestic relations matter as that term is
9 defined in section 2 of the friend of the court act, 1982 PA 294,
10 MCL 552.502, or pursuant to a judicial order sought by an agency of
11 the federal, state, or local government charged with the
12 responsibility for the administration or enforcement of criminal
13 law for purposes of investigating or prosecuting criminal matters
14 or for federal or state grand jury proceedings or a judicial order
15 if the taxpayer's liability for a tax administered under this act
16 is to be adjudicated by the court that issued the judicial order. A
17 person may disclose the adjusted gross receipts and the wagering
18 tax paid by a casino licensee licensed under the Michigan gaming
19 control and revenue act, the Initiated Law of 1996, MCL 432.201 to
20 432.226, pursuant to section 18, sections 341, 342, and 386 of the
21 management and budget act, 1984 PA 431, MCL 18.1341, 18.1342, and
22 18.1386, or authorization by the executive director of the gaming
23 control board. However, the state treasurer or a person designated
24 by the state treasurer may divulge information set forth or
25 disclosed in a return or report or by an investigation or audit to
26 any department, institution, or agency of state government upon
27 receipt of a written request from a head of the department,

1 institution, or agency of state government if it is required for
2 the effective administration or enforcement of the laws of this
3 state, to a proper officer of the United States department of
4 treasury, and to a proper officer of another state reciprocating in
5 this privilege. The state treasurer may enter into reciprocal
6 agreements with other departments of state government, the United
7 States department of treasury, local governmental units within this
8 state, or taxing officials of other states for the enforcement,
9 collection, and exchange of data after ascertaining that any
10 information provided will be subject to confidentiality
11 restrictions substantially the same as the provisions of this act.

12 (2) A person who violates subsection (1)(e), (1)(f), or (4) is
13 guilty of a felony, punishable by a fine of not more than
14 \$5,000.00, or imprisonment for not more than 5 years, or both,
15 together with the costs of prosecution. In addition, if the offense
16 is committed by an employee of this state, the person shall be
17 dismissed from office or discharged from employment upon
18 conviction.

19 (3) A person liable for any tax administered under this act
20 shall keep accurate and complete records necessary for the proper
21 determination of tax liability as required by law or rule of the
22 department.

23 (4) A person who receives information under subsection (1)(f)
24 for the proper administration of the general property tax act, 1893
25 PA 206, MCL 211.1 to 211.157, shall not willfully disclose that
26 information for any purpose other than the administration of the
27 general property tax act, 1893 PA 206, MCL 211.1 to 211.157. A

1 person who violates this subsection is subject to the penalties
2 provided in subsection (2).

3 (5) As used in subsection (1), "adjusted gross receipts" and
4 "wagering tax" mean those terms as described in the Michigan gaming
5 control and revenue act, the Initiated Law of 1996, MCL 432.201 to
6 432.226.