

No. 641, A.]

[Published May 27, 1953.

CHAPTER 178

AN ACT to create 139.11 and 139.12 of the statutes, relating to the occupational tax on fermented malt beverages and the payment thereof.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 139.11 of the statutes is created to read:

139.11 PAYMENT OF TAX. (1) The occupational tax imposed in s. 139.01 shall be paid to the commissioner of taxation on or before the tenth day of the month following the month in which such malt beverages shall be first sold in this state.

(2) Each brewer and bottler in this state and each wholesaler of malt beverages within this state to whom malt beverages are shipped from outside this state shall on or before the tenth day of each month, file with the commissioner of taxation on forms prescribed by him a verified return containing such information as may be required to compute and show the amount of occupational tax payable by him for the next preceding calendar month on malt beverages.

(3) The amount of the occupational tax in the amount disclosed by the return shall accompany the return and shall be paid to the commissioner of taxation.

(4) Each brewer, bottler and wholesaler required to file a return shall keep complete and accurate books and records, accounts and other documents as may be necessary to substantiate the accuracy of his return and the amount of occupational tax due and shall retain such records for a period of 2 years.

(5) In order to insure the payment of all state occupational taxes imposed by law on malt beverages together with all interest and penalties thereon, all persons required to make returns and payment of such tax shall first enter into a surety bond with corporate surety, both such bond and surety to be approved by the commissioner of taxation. Subject to the limitations hereinafter specified, the amount of such bond required of any taxpayer shall be fixed by the commissioner of taxation and may be increased or reduced by him at any time. In fixing the amount the commissioner shall require a bond in total amount equal to twice the taxpayer's estimated maximum monthly excise tax, ascertained in such manner as the commissioner may deem proper. In any event the amount of such bond required of any one taxpayer shall not be less than \$1,000 nor more than \$100,000. These bonds shall be filed with the commissioner of taxation.

(6) No person shall receive malt beverages in this state which have been shipped directly to him from outside this state by any person other than a holder of a permit issued by the commissioner of taxation. The commissioner of taxation may issue such permits to out-of-state shippers which shall allow the permittee to ship malt beverages to and only to holders of a wholesaler's license issued under the provisions of s. 66.054 (5) (b). Such permit shall be issued free of charge. The application for such permit and the permit shall be in such form as the commissioner shall prescribe. The application shall contain all such provisions as to the commissioner shall seem proper and necessary to effectuate the purpose of this chapter and shall include, but without limitation by reason of this special mention, a provision that the permittee in consideration of the issuance of a permit, agrees:

(a) To comply with and be bound by the provisions of this section pertaining to the making and filing of a bond and the making and filing of returns, the payment of taxes and the keeping of records;

(b) That he will permit and be subject to all of the powers granted by s. 139.06 to the commissioner of taxation or his duly authorized employes for inspection and examination of his premises and his records; and

(c) To pay the expenses reasonably attributable to such inspections and examinations made within the United States. If any such permittee violates any of the provisions of his application or of this chapter, the commissioner of taxation may revoke or suspend such permit for such period of time as he may determine.

(7) If the occupational tax shall not be paid when due, there shall be added to the

amount of the tax as a penalty a sum equal to 15 per cent thereof, and in addition thereto interest on the tax at the rate of one per cent per month or fraction of a month from the date the tax became due until paid. Nothing herein contained shall be construed to relieve any person otherwise liable from liability for payment of the occupational tax.

(8) The commissioner of taxation shall make refund or allowance to the brewer, bottler or wholesaler, as the case may be, of the amount of the occupational tax paid or payable on whole cases or full kegs of malt beverages sold in this state when such malt beverages have spoiled or become unfit for beverage purposes, and the tax on malt beverages sold to the armed forces of the United States. The commissioner shall prescribe the method of proof required for obtaining such refunds or allowances.

SECTION 2. 139.12 of the statutes is created to read:

139.12 DISCONTINUANCE OF USE OF OCCUPATIONAL TAX STAMPS. (1) From and after the effective date of this act the purchase, affixation, and cancellation of malt beverage occupational tax stamps shall not be required in the state of Wisconsin, any and all requirements in this chapter to the contrary notwithstanding.

(2) The commissioner of taxation shall make refund or allow proper credit to the purchaser, for unused malt beverage stamps upon delivery to said commissioner of such unused tax stamps in the possession of the purchaser on the effective date of this act.

SECTION 3. This act shall take effect September 1, 1953.

Approved May 22, 1953.
