

CHAPTER 17.

AN ACT to repeal chapter 109 (chapter heading), 109.01 and 109.02; to renumber 14.426 to be 73.035; 73.02 (3) (d) and (e) to be, respectively, 73.02 (3) (f) and (g); and 109.03, 109.04 and 109.05 to be, respectively, 73.03 (23) (a), (b) and (c); to amend 14.71 (1); 73.02 (3) (g) as renumbered; 73.02 (4); 73.03 (23) (a), (b) and (c), as renumbered; 73.035, as renumbered; 139.03 (11); 139.29; 139.50 (21); 168.01 (1); 168.02; 168.03 (1); 168.14; 168.155 (3); 176.01 (3); and 176.90 (2); and to create 73.02 (3) (d) and (e), and 73.03 (24) of the statutes, transferring the administration and enforcement of certain provisions in sections 14.426 and 66.054 and in chapters 139, 168 and 176 of the statutes to the commissioner and department of taxation, providing penalties and making appropriations.

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

SECTION 1. 14.426 of the statutes is renumbered 73.035 and amended to read:

73.035 The * * * *commissioner of taxation* and such of his employes as are authorized to enforce the provisions of chapters 139 and 176 shall enforce the provisions of sections 348.07, 348.08 and 348.09 and shall be invested with the powers conferred by law upon sheriffs and municipal police officers in the performance of such duties. Nothing herein shall deprive or relieve sheriffs, constables and other local police officers of the power and duty to enforce the provisions of said sections, and such officers shall likewise enforce the provisions of said sections.

SECTION 2. 14.71 (1) of the statutes is amended to read:

14.71 (1) Except as expressly provided by law, the governor, secretary of state, state treasurer, attorney-general, state superintendent, commissioner of insurance, state fire marshal, director of purchases, public service commission, industrial commission, adjutant general, director of veterans' affairs, grain and warehouse commission, director of personnel, department of taxation, board of tax appeals, commissioners of public lands, state conservation commission, * * * commissioner of banks, commissioner of savings and loan associations, banking review board, free library commission, state chief engineer, director of agriculture, director of the budget and accounts, geological and natural history survey, state board of health, state highway commission, state auditor, state planning board, state board of medical examiners, state board of dental examiners, state board of pharmacy, Wisconsin real estate brokers board, state board of vocational and adult education, Wisconsin employment relations board, commissioner of the motor vehicle department, director of public welfare, state aeronautics commission and state athletic commission are each authorized to appoint such deputies, assistants, experts, clerks, stenographers or other employes as shall be necessary for the execution of their functions, and to designate the titles, prescribe the duties, and fix the compensation of such subordinates, but these powers shall be exercised subject to the state civil service law, unless the position filled by any such subordinate has been expressly exempted from the operation of chapter 16 and subject, also, to the approval of such other officer or body as may be prescribed by law.

SECTION 3. 73.02 (3) (d) and (c) of the statutes are renumbered, respectively, 73.02 (3) (f) and (g).

SECTION 4. 73.02 (3) (d) and (e) of the statutes are created to read:

73.02 (3) (d) The division of beverage and cigarette taxes.

(e) The division of petroleum products.

SECTION 5. 73.02 (3) (g), as renumbered, of the statutes, is amended to read:

73.02 (3) (g) The commissioner may allocate and reallocate functions, powers and duties among the divisions within the department, *except the division of beverage and cigarette taxes.*

SECTION 6. 73.02 (4) of the statutes is amended to read:

73.02 (4) The commissioner shall appoint a single head for each of the divisions enumerated in subsection (3) * * *. Each division head shall be appointed * * * under the provisions of chapter 16.

SECTION 7. 73.03 (24) of the statutes is created to read:

73.03 (24) To administer and enforce those provisions of section 66.054 and chapters 139 and 176 which prior to July 1, 1949, were administered and enforced by the state treasurer and the term "commissioner of taxation" shall be deemed substituted

for the term "state treasurer" where such term appears in section 66.054 and chapters 139 and 176 except where the term "state treasurer" or "treasurer" is indicated or intended by the context to mean in his capacity as treasurer as provided in section 14.42.

SECTION 8. Chapter 109 (chapter heading) is repealed.

SECTION 9. 109.01 of the statutes is repealed.

SECTION 10. 109.02 of the statutes is repealed.

SECTION 11. 109.03, 109.04 and 109.05 of the statutes are renumbered, respectively, 73.03 (23) (a), (b) and (c) and amended to read:

73.03 (23) (a) The * * * *commissioner of taxation* shall succeed to all powers and duties imposed by law, immediately prior to the taking effect (1949) of this * * * subsection, upon the *state treasurer*, the state supervisor of inspectors * * * and the state inspection bureau. *The commissioner shall perform such duties through the division of petroleum products which shall also perform such other duties as the * * * commissioner may require or as may be prescribed by law.*

(b) The * * * *commissioner* shall have power and authority to make and enforce such necessary rules and regulations, not inconsistent with law, as he may deem necessary for the discharge of all the powers and duties of the * * * *division of petroleum products*. He shall also have authority to prescribe forms for all applications, notices and reports required by law to be made to the * * * *division* or which are necessary in its work.

(c) The * * * *commissioner* shall include in his biennial report to the governor a summary of the activities of the * * * *division of petroleum products* during the biennium. He shall also make such special reports upon any phase of the work of the * * * *division* as may be called for by the governor, the legislature or either house thereof.

SECTION 12. 139.03 (11) of the statutes is amended to read:

139.03 (11) The * * * *commissioner of taxation* shall enforce and administer the provisions of this chapter * * *. The *commissioner* shall design, procure, furnish and sell the stamps herein provided for. He shall collect and keep a record of all taxes collected and stamps sold, and shall issue such rules and regulations as may be necessary to carry out the provisions of this chapter.

SECTION 13. 139.29 of the statutes is amended to read:

139.29 Whenever the * * * *commissioner of taxation* in administering the provisions of this chapter finds that the records kept by any brewer, bottler, manufacturer, rectifier, wholesaler or retailer are in such condition that an unusual amount of time is required to determine therefrom the amount of tax due, the * * * *commissioner* may give notice of such fact to such brewer, bottler, manufacturer, rectifier, wholesaler or retailer and may in such notice require said records to be kept in such form as the * * * *commissioner* may prescribe. If such requirements are not complied with within 30 days after the date thereof, such brewer, bottler, manufacturer, rectifier, wholesaler or retailer shall pay the expenses reasonably attributable to such determination of tax at the rate of \$15 per day for each auditor. The * * * *commissioner* shall render a bill therefor by registered mail to the person charged with payment at the conclusion of the audit, which bill shall constitute notice of assessment and demand of payment thereof. Upon the bill so rendered such brewer, bottler, manufacturer, rectifier, wholesaler or retailer shall, within 10 days after the mailing thereof, pay the amount of said bill, and such payment, when made, shall be credited to the appropriation made in * * * section * * * 20.09 (10).

SECTION 14. 139.50 (21) of the statutes is amended to read:

139.50 (21) The * * * *commissioner of taxation* shall enforce and administer the provisions of this section * * *. The * * * *commissioner* shall design, procure, furnish and sell the stamps herein provided for. He shall collect and keep a record of all taxes collected and stamps sold, and shall issue such rules and regulations as may be necessary to carry out the provisions of this section.

SECTION 15. 168.01 (1) of the statutes is amended to read:

168.01 (1) Whenever in this chapter or elsewhere in the statutes, the terms "supervisor of inspectors of illuminating oils," "supervisor of inspectors" and "supervisors" are used, these terms shall be understood and construed to apply to the * * * *head of the division of petroleum products in the department of taxation*. The term "deputy inspector of illuminating oils," "deputy inspector," "oil inspector" and "inspector" referring to the deputy inspectors of petroleum products, shall be understood and construed to apply to the duly authorized inspectors of the * * * *division of petroleum products in the department of taxation* engaged in the work of the inspection of petroleum products, either exclusively or as part of other duties.

CHAPTER 17

SECTION 16. 168.02 of the statutes is amended to read:

168.02 It shall be the duty of the * * * *commissioner of taxation, to enforce and administer the provisions of this chapter through the division of petroleum products, to oversee all deputy inspectors, instruct them in the performance of their duties, see that they faithfully perform the duties of their office, keep a record of their reports to him, and to make a report to the governor on October 1 in each year. * * * The commissioner of taxation shall make rules and regulations for their guidance not inconsistent with the provisions of this chapter. * * * Inspection districts shall be defined * * * and numbered by the * * * commissioner of taxation.*

SECTION 17. 168.03 (1) of the statutes is amended to read:

168.03 (1) *The division head and every deputy inspector shall take and file the official oath and execute and file a surety bond in a sum not exceeding \$5,000 nor less than \$500 fixed by the * * * commissioner of taxation, and a certified copy of such bond shall be filed in the office of the secretary of state. The bond of the supervisor and of each deputy shall be approved by the governor. Such bonds to be procured as other official bonds furnished by the state.*

SECTION 18. 168.14 of the statutes is amended to read:

168.14 The * * * *commissioner of taxation is authorized to make, promulgate and enforce such reasonable rules and regulations relating to the administration and enforcement of the provisions of this chapter as may be deemed necessary.*

SECTION 19. 168.155 (3) of the statutes is amended to read:

168.155 (3) *The commissioner of taxation * * * and the deputy inspectors shall enforce the provisions of this section.*

SECTION 20. 176.01 (3) of the statutes is amended to read:

176.01 (3) The term "peace officer" includes sheriffs, undersheriffs, deputy sheriffs, police officers, constables, marshals, and deputy marshals, and any duly authorized employe of the * * * *commissioner of taxation to act as such under chapters 139 and 176.*

SECTION 21. 176.90 (2) of the statutes is amended to read:

176.90 (2) Any sheriff, undersheriff, deputy sheriff, constable or other municipal police officer or any person authorized to enforce the gambling laws under the provisions of section * * * *73.035 shall within 10 days after acquiring such information report to the district attorney of the county the name and address of any licensee or permittee under chapter 176 or section 66.054 who to his knowledge has knowingly suffered or permitted any device to which reference is made in subsection (1) to be set up, kept, managed or used upon the licensed premises or in connection therewith upon premises controlled directly or indirectly by such licensee or permittee. Such officer or person shall also report to the district attorney his knowledge of the circumstances and the name of the municipality or officer by whom the license or permit has been issued. Any other person may in writing and signed by that person report any such name, address and other information to the district attorney. Within 10 days after any report to him the district attorney shall institute a proceeding as hereinafter provided before the circuit court of his county or shall within such time report to the attorney-general the reasons why such a proceeding has not been instituted. If thereafter the attorney-general shall so direct, the district attorney shall institute such proceeding within such reasonable time as the attorney-general shall direct unless the attorney-general elects to institute the proceeding, in which case he is authorized to do so.*

SECTION 22. (1) Every employe of the division of beverage and cigarette taxes who is subject to the provisions of chapter 16 and who is affected by the taking effect of this act is continued as an employe of the division of beverage and cigarette taxes of the department of taxation and every other employe of the state treasurer whose principal duties relate to the functions transferred by this act is continued as an employe of the department of taxation, each of them at the salary received by him at the time of transfer plus any increase to take effect July 1, 1949, recommended for him by the state treasurer under sections 14.71 (1m) and 16.105 (2), subject to the right of the department to make changes in the manner provided by law in personnel, salaries, titles and duties. The director of the division of beverage and cigarette taxes shall be continued as head thereof and shall be deemed an employe within the meaning of that word as used in this subsection.

(2) The present office and term of supervisor of inspectors is abolished and terminated.

(3) All records, equipment and property maintained or used in the office of the state treasurer in connection with the functions transferred by this act are transferred to the department of taxation, except such records, files or parts or contents thereof or documents or papers which are required to be kept by the state treasurer by virtue of his

duties other than those transferred by this act, in which case the commissioner of taxation shall have access to such records, files, documents and papers, and if the commissioner deems it necessary to the performance of his duties and makes request therefor, the state treasurer shall furnish him with a copy of the record, file or the part or contents thereof or documents or papers specified, which copy shall be certified by the state treasurer as a correct copy if the commissioner so requests. In case of dispute under this subsection, determination shall be made by the governor.

(4) The office space and vault space heretofore used by the state inspection bureau and the beverage tax division in the administration and enforcement of the functions transferred by this act are assigned to the department of taxation.

(4m) All unencumbered balances of annual appropriations to the state treasurer under sections 20.05 (5), (6), (7) and (11) and 20.056 of the statutes, commencing July 1, 1948 are hereby transferred to the state department of taxation to be used for the appropriated purposes.

(5) All registrations made, all licenses, permits, and stamps issued by and all acts of the state treasurer in force, under section 66.054 and chapters 139, 168 and 176 of the statutes before the transfer effected by this act, shall be as valid and of the same force and effect with respect to persons having lawful right to or under the same after transfer as before transfer, provided that after transfer such matters shall in addition be subject to all acts, orders, rules and regulations made by the commissioner of taxation and which are not inconsistent with said section 66.054 and said chapters 139, 168 and 176 and this chapter.

(6) The commissioner of taxation shall have the power to make such reasonable orders, rules and regulations not inconsistent with law as he may deem necessary to the efficient discharge of the powers, duties and functions vested in his department by this act.

(7) All outstanding orders, rules and regulations of the state treasurer in connection with the functions transferred by this act shall continue in full force and effect as orders, rules and regulations of the commissioner of taxation except insofar as the same may be rescinded, altered or amended by the commissioner consistent with law.

(8) As soon as practicable the state treasurer shall furnish the commissioner with the original of such orders, rules and regulations unless they also pertain to duties not affected by such transfer, in which case the state treasurer shall furnish the commissioner with certified copies of such orders, rules and regulations.

SECTION 23. The revisor of statutes is directed to make the necessary changes in the language of the statutes so as to indicate the transfers provided in this act.

SECTION 24. The state treasurer, the state supervisor of inspectors and the commissioner of taxation and their employes shall co-operate relative to their respective duties affected by this act so that insofar as practicable such preliminary plans shall be made and such steps taken so that all transfers provided for in this act shall be executed within 15 days after the effective date of this act. All other state officers and their employes whose functions come into operation because of the transfers effected by this act shall also co-operate to the extent of their functions so that the provisions of this act will be effectively and efficiently carried out.

Approved July 7, 1949.
