



2001 SENATE BILL 215

July 5, 2001 – Introduced by Senator ROBSON, cosponsored by Representative M. LEHMAN, by request of the Department of Revenue. Referred to Committee on Universities, Housing, and Government Operations.

1 **AN ACT** *to amend* 139.85 (1); and *to create* 139.44 (13) and 139.44 (14) of the
2 statutes; **relating to:** late and false or fraudulent cigarette tax returns and
3 providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person who is required to pay a liquor tax or a tobacco products tax and who fails to file a liquor tax or tobacco products tax return by the date that the return is due must pay a penalty equal to 5% of the tax that is due for every month or part of a month that the return remains outstanding, but not exceeding 25% of the tax that is due. If a person who is required to pay a liquor tax or a tobacco products tax fails to file a timely liquor tax or tobacco products tax return, or files a false or fraudulent return, with intent to evade the tax, the person must pay a penalty equal to 50% of the tax that is due. "Tobacco products" include cigars, pipe tobacco, and chewing tobacco, but not cigarettes.

Under this bill, a person who is required to pay a cigarette tax and who fails to file a cigarette tax return by the date that the return is due must pay a penalty equal to 5% of the tax that is due for every month or part of a month that the return remains outstanding, but not exceeding 25% of the tax that is due. If a person who is required to pay a cigarette tax fails to file a timely cigarette tax return, or files a false or fraudulent return, with intent to evade the tax, the person must pay a penalty equal to 50% of the tax that is due.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 139.44 (13) of the statutes is created to read:

2 139.44 (13) In case of failure to file any return required under s. 139.38 by the
3 due date, unless it is shown that that failure was due to reasonable cause and not due
4 to neglect, there shall be added to the amount required to be shown as tax on that
5 return 5% of the amount of that tax if the failure is for not more than one month, and
6 an additional 5% of the tax for each additional month or fraction of a month during
7 which that failure continues, not exceeding 25% of the tax in the aggregate. For
8 purposes of this subsection, the amount of tax required to be shown on the return
9 shall be reduced by the amount of any part of the tax that is paid on or before the due
10 date prescribed for payment of the tax and by the amount of any credit against the
11 tax that may be claimed upon the return.

12 **SECTION 2.** 139.44 (14) of the statutes is created to read:

13 139.44 (14) If a person fails to file a return when due or files a false or
14 fraudulent return with intent to defeat or evade the tax imposed by this subchapter,
15 a penalty of 50% of the tax shall be added to the tax required to be paid, exclusive
16 of interest and other penalties.

17 **SECTION 3.** 139.85 (1) of the statutes is amended to read:

18 139.85 (1) The interest and penalties under s. 139.44 (2) to (7) ~~and~~ (9) to (12),
19 and (14) apply to this subchapter. In addition, a person who violates s. 139.82 (8)
20 shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned for not less
21 than 90 days nor more than one year or both.

