



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-2136/1
JK/AG/EL/MP/EW:kjf

2021 SENATE BILL 285

April 8, 2021 – Introduced by Senators WANGGAARD and L. TAYLOR, cosponsored by Representatives SPIROS, DRAKE, MOSES, SKOWRONSKI, BALDEH, EMERSON, GOYKE, HAYWOOD, MACCO, VRUWINK, MCGUIRE, WITTKE and CONLEY. Referred to Committee on Financial Institutions and Revenue.

1 **AN ACT to renumber and amend** 134.65 (1m); **to amend** 71.78 (1), 71.78 (4) (b),
2 71.78 (5), 71.78 (6), 72.06, 77.61 (5) (b) 2., 77.61 (5) (c), 77.61 (5) (d), 78.80 (3),
3 125.04 (4), 139.11 (4) (a) (intro.), 139.38 (6), 139.44 (2), 139.44 (8) (a), (b) and (c),
4 139.82 (6), 227.52 (1), 565.17 (5) (a), 565.50 (2), 565.50 (3) and 946.82 (4); and
5 **to create** 71.78 (1g), 71.78 (4) (v), 71.83 (6), 73.03 (51b), 77.61 (5) (am), 77.61
6 (5) (b) 15., 125.02 (1c), 125.04 (8m), 125.09 (8), 125.09 (9), 125.112, 125.12 (7),
7 134.65 (1g), 134.65 (1m) (a) 1., 2. and 3., 134.65 (1m) (b), 134.65 (2m), 134.65
8 (3m), 139.44 (2m), 139.44 (8) (d), 227.43 (1) (bt), 227.43 (3) (bt), 227.43 (4) (bt),
9 565.17 (5) (d) and 565.50 (4) of the statutes; **relating to:** Department of
10 Revenue enforcement and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill makes the following changes related to the Department of Revenue's enforcement and administration of the laws under its purview:

License to sell cigarettes or tobacco products

The bill creates requirements relating to retail licenses to sell cigarettes or tobacco products.

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Under current law, a person must obtain an annual license from the person's city, village, or town (municipality) before selling cigarettes or tobacco products. Under the bill, DOR must create an application form for such licenses. The form must include the applicant's history relevant to the applicant's fitness to hold a license; the kind of retailer license for which the applicant is applying; the premises where cigarettes or tobacco products will be sold or stored; if the applicant is a corporation, the identity of the corporate officers and agent; if the applicant is a limited liability company, the identity of the company members or managers and agent; the applicant's trade name, if any; whether the applicant will sell, exchange, barter, dispose of, or give away the cigarette or tobacco products over the counter or in a vending machine, or both; and any other information required by DOR.

The bill requires an applicant for a retail license to sell cigarettes or tobacco products to use the form created by DOR. An applicant must also sign the application and notify the municipality of any changes in information to the application within 10 days of the change. In addition, the bill requires the municipality to keep all submitted applications for at least four years.

Under the bill, a retail license to sell cigarettes or tobacco may be issued only if the applicant has not been a habitual law offender or been convicted of a felony, unless pardoned; the applicant has submitted the proof required by DOR under current law relating to the collection of sales and use tax; and the applicant is at least 18 years old. If the applicant is a business entity that has been convicted of a crime, the business entity may not receive a retail license unless it has terminated its relationship with the individuals whose actions directly contributed to the conviction.

The bill also requires municipalities that issue retail licenses to sell cigarettes or tobacco to submit a list annually to DOR with a list of those licenses and certain information relating to the licenses and licensees, which DOR must post on its Internet site.

Finally, the bill requires a licensee to place the licensee's retail license in a frame with a transparent front and to conspicuously display the license at all times in the room or place where the licensed activity takes place.

Forfeitures for alcohol beverage violations

The bill creates an administrative procedure under which DOR may assess and collect administrative forfeitures for alcohol beverage violations.

Current law provides as a general penalty for violating the state's alcohol beverage laws a fine of not more than \$1,000 or imprisonment for not more than 90 days, or both, if no specific penalty is provided. However, certain violations are subject to specific penalties, which depending on the violation may be a forfeiture (a civil penalty) or may be a fine (a criminal penalty) or imprisonment. Each such penalty is enforced by means of a court proceeding.

Also under current law, DOR may institute an administrative proceeding to suspend or revoke an alcohol beverage permit issued by DOR and may institute a court proceeding to suspend or revoke an alcohol beverage license issued by a municipality.

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The bill authorizes DOR to directly assess against a person specified forfeitures for specified violations of the alcohol beverage laws. If DOR determines that a forfeiture should be assessed, DOR must issue a notice of assessment (citation) to the person that includes the amount of the forfeiture and the alleged violation and informs the person of the person's right to a hearing. The person issued the citation may contest the assessment by means of a hearing before the Division of Hearings and Appeals in the Department of Administration. DOR has authority to settle the matter after issuing the citation, but only in an amount that is at least the minimum statutory forfeiture amount for the alleged violation.

Publishing a list of retail licenses

The bill requires DOR to publish a list of retail licensees on DOR's Internet site.

Under current law, DOR issues alcohol beverage permits, and municipalities issue alcohol beverage licenses. Each municipality must annually provide DOR with a list of the municipality's retail licensees, including name, address, and type of license. The bill requires DOR to publish this list on DOR's Internet site.

Criminal history search fee

The bill requires an applicant for an alcohol beverages permit issued by DOR to pay to DOR the criminal history search fee associated with the application.

Under current law, DOR may not issue an alcohol beverages permit to an applicant that has a disqualifying criminal record. The Department of Justice charges a fee for a criminal history search. This bill requires the permit applicant to pay this criminal history search fee incurred by DOR.

Tax return information disclosure

The bill authorizes employees of DOR and DOJ to disclose tax return information under certain circumstances.

Under the bill, DOR employees may, in connection with their official duties, disclose tax return information to the extent that the disclosure is necessary for the enforcement of Wisconsin's tax laws. The disclosure must be limited to the information relevant to a particular matter in connection with an audit, collection, inspection, or investigation.

The bill authorizes DOJ employees to disclose, in connection with their official duties, the tax return information they are authorized to access under current law to a law enforcement investigator participating in a DOJ investigation. The disclosure must be limited to the information relevant to a particular matter in connection with the investigation.

The bill also specifies that federal and Wisconsin grand juries are authorized to access tax return information upon DOR's receipt of a grand jury subpoena.

Lottery

Under current law, no employee of the Lottery Division of DOR may purchase a lottery ticket or lottery share. The bill allows such an employee to purchase a lottery ticket or a lottery share, if the purchase is made on behalf of the Lottery Division of DOR as part of an official lottery investigation.

Also under current law, if a person alters or forges a lottery ticket, or utters or transfers an altered or forged lottery ticket, the person is guilty of a Class I felony.

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The bill adds that if a person counterfeits or illegally obtains a lottery ticket, or utters or transfers a counterfeit or illegally obtained lottery ticket, the person is also guilty of a Class I felony.

Under current law, a person who possesses an altered or forged lottery ticket or share with intent to defraud is guilty of a misdemeanor, subject to a fine of not more than \$10,000 or imprisonment for not more than nine months or both. The bill adds that a person who possesses a counterfeit, illegally obtained, or previously redeemed lottery ticket is also guilty of a misdemeanor, subject to a fine of not more than \$10,000 or imprisonment for not more than nine months or both.

Finally, under current law, lottery winnings are subject to withholdings for state taxes, child support, spousal support, maintenance or family support, assessments, fines, restitution, and surcharges. Under the bill, if a person transfers a winning lottery ticket to another person or claims a lottery prize from a transferred ticket with the intent to avoid these withholdings, the person is guilty of a misdemeanor, subject to a fine of not more than \$10,000 or imprisonment for not more than nine months or both.

Possession of alcohol vapor devices

The bill prohibits a person from using, possessing, or selling an alcohol vapor device, which is a device that turns an alcohol beverage into a vapor or mist to be inhaled.

Penalties for evading excise taxes and unlawful possession of cigarettes

The bill increases the penalties for evading the excise taxes imposed on cigarettes, tobacco products, and vapor products.

Under current law, a person who attempts to evade these taxes, or who aids in or abets the evasion or attempted evasion of these taxes, may be fined not more than \$10,000 or imprisoned for not more than nine months, or both.

Under the bill, a person who evades or attempts to evade these taxes, or who aids in or abets the evasion or attempted evasion of these taxes, is guilty of the following:

1. A Class A misdemeanor if the amount of the tax is no more than \$2,500.
2. A Class I felony if the amount of the tax is more than \$2,500, but no more than \$5,000.
3. A Class H felony if the amount of the tax is more than \$5,000, but no more than \$10,000.
4. A Class G felony if the amount of the tax is more than \$10,000, but no more than \$100,000.
5. A Class F felony if the amount of tax is more than \$100,000.

The bill also increases the penalties for the unlawful possession of cigarettes.

Under current law, a person who unlawfully possesses up to 6,000 cigarettes is subject to a fine of not more than \$200 or imprisonment for not more than six months, or both. A person who unlawfully possesses more than 6,000 cigarettes but no more than 36,000 cigarettes is subject to a fine of not more than \$1,000 or imprisonment for not more than one year in county jail, or both. A person who unlawfully possesses more than 36,000 cigarettes is guilty of a Class I felony.

Under the bill, the penalties are increased as follows:

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1. A person who unlawfully possesses no more than 3,000 cigarettes may be fined not more than \$1,000 or imprisoned for not more than one year, or both.
2. A person who unlawfully possesses more than 3,000 cigarettes but no more than 5,000 cigarettes is guilty of a Class I felony.
3. A person who unlawfully possesses more than 5,000 cigarettes but no more than 10,000 cigarettes is guilty of a Class H felony.
4. A person who unlawfully possesses more than 10,000 cigarettes is guilty of a Class F felony.

The bill also amends the definition of “racketeering activity” for purposes of the Wisconsin Organized Crime Control Act to include the attempt, conspiracy to commit, or commission of the felonies created under the bill related to evading excise taxes and unlawful possession of cigarettes.

Alcohol beverage permit reapplication

The bill provides that, if DOR refuses to issue, refuses to renew, or revokes an alcohol beverages permit, the applicant or permit holder may not reapply to DOR for the permit for a period of 12 months.

Possession of a still

The bill generally prohibits a person from possessing a still or other apparatus for manufacturing, rectifying, distilling, refining, or purifying intoxicating liquor other than wine. A person who violates this prohibition may be fined not more than \$10,000 or imprisoned for not more than nine months or both. The prohibition does not apply to a person that holds an intoxicating liquor manufacturer’s or rectifier’s permit from DOR or that has registered the still or a distilled spirits plant under federal law.

Sales suppression devices and phantomware

Under the bill, any person who creates, designs, manufactures, sells, purchases, leases, installs, updates, repairs, services, transfers, uses, or possesses in this state phantomware or an automated sales suppression device, unless for a legitimate purpose, is guilty of a Class D felony. The bill also authorizes DOR to revoke any permit, license, or certificate issued by DOR for up to 10 years for violating this prohibition.

Under the bill, an “automated sales suppression device” is a software program that falsifies the electronic records of electronic cash registers and other point-of-sale systems. The bill defines “phantomware” as a programming option embedded in the operating system of an electronic cash register, or hardwired into an electronic cash register, that can be used to create a virtual second electronic cash register or eliminate or manipulate transaction records. Automated sales suppression devices and phantomware are typically used to evade the payment of taxes.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

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For further information see the state and local 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.** 71.78 (1) of the statutes is amended to read:

2 71.78 (1) DIVULGING INFORMATION. Except as provided in subs. (1g), (4), (4m) and
3 (10), no person may divulge or circulate or offer to obtain, divulge, or circulate any
4 information derived from an income, franchise, withholding, fiduciary, partnership,
5 or limited liability company tax return or tax credit claim, including information
6 which may be furnished by the department as provided in this section. This
7 subsection does not prohibit publication by any newspaper of information lawfully
8 derived from such returns or claims for purposes of argument or prohibit any public
9 speaker from referring to such information in any address. This subsection does not
10 prohibit the department from publishing statistics classified so as not to disclose the
11 identity of particular returns, or claims or reports and the items thereof. This
12 subsection does not prohibit employees or agents of the department of revenue from
13 offering or submitting any return, including joint returns of a spouse or former
14 spouse, separate returns of a spouse, individual returns of a spouse or former spouse,
15 and combined individual income tax returns, or from offering or submitting any
16 claim, schedule, exhibit, writing, or audit report or a copy of, and any information
17 derived from, any of those documents as evidence into the record of any contested
18 matter involving the department in proceedings or litigation on state tax matters if,
19 in the department's judgment, that evidence has reasonable probative value.

20 **SECTION 2.** 71.78 (1g) of the statutes is created to read:

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1 71.78 (1g) PERMISSIBLE DISCLOSURE BY DEPARTMENT EMPLOYEES. An employee of
2 the department may, in connection with the employee's official duties, disclose
3 information derived from a return or claim specified in sub. (1) to the extent that the
4 disclosure is necessary for the enforcement of the tax laws of this state. The
5 disclosure shall be limited to the information relevant to a particular matter in
6 connection with an audit, collection, inspection, or investigation.

7 **SECTION 3.** 71.78 (4) (b) of the statutes is amended to read:

8 71.78 (4) (b) The attorney general and department of justice employees. A
9 department of justice employee may, in connection with the employee's official
10 duties, disclose information derived under this paragraph to a law enforcement
11 investigator participating in a department of justice investigation. The disclosure
12 shall be limited to the information relevant to a particular matter in connection with
13 the department of justice investigation.

14 **SECTION 4.** 71.78 (4) (v) of the statutes is created to read:

15 71.78 (4) (v) A federal grand jury or grand jury of this state, upon receipt by
16 the department of a grand jury subpoena.

17 **SECTION 5.** 71.78 (5) of the statutes is amended to read:

18 71.78 (5) AGREEMENT WITH DEPARTMENT. Copies of returns and claims specified
19 in sub. (1) and related schedules, exhibits, writings or audit reports shall not be
20 furnished to the persons listed under sub. (4), except persons under sub. (4) (e), (k),
21 (n), (o) and, (q), and (v) or under an agreement between the department of revenue
22 and another agency of government.

23 **SECTION 6.** 71.78 (6) of the statutes is amended to read:

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1 71.78 (6) RESTRICTION ON USE OF INFORMATION. The use of information obtained
2 under sub. (4) or (5) is restricted to the discharge of duties imposed upon the persons
3 by law or by the duties of their office or by order of a court as provided under sub. (4)
4 (f) or (v).

5 **SECTION 7.** 71.83 (6) of the statutes is created to read:

6 71.83 (6) AUTOMATED SALES SUPPRESSION DEVICES AND PHANTOMWARE. (a)
7 *Definitions.* In this subsection:

8 1. “Automated sales suppression device” means a software program that
9 falsifies the electronic records, including transaction data and transaction reports,
10 of electronic cash registers and other point-of-sale systems.

11 2. “Electronic cash register” means a device that keeps a register or supporting
12 documents by means of an electronic device or computer system designed to record
13 transaction data for the purpose of computing, compiling, or processing retail sales
14 transaction data or transaction reports.

15 3. “Phantomware” means a programming option embedded in the operating
16 system of an electronic cash register, or hardwired into an electronic cash register,
17 that can be used to create a virtual second electronic cash register or eliminate or
18 manipulate transaction records that may or may not be preserved in digital formats
19 to represent the true or manipulated record of transactions in the electronic cash
20 register.

21 4. “Transaction data” includes items purchased by a customer, the price for
22 each item, a taxability determination for each item, a segregated tax amount for each
23 of the taxed items, the amount of cash or credit tendered, the net amount returned
24 to the customer in change, the date and time of the purchase, the name, address, and

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1 identification number of the vendor, and the receipt or invoice number of the
2 transaction.

3 5. "Transaction report" means a report that includes the sales, taxes collected,
4 media totals, and discount voids at an electronic cash register that is printed on cash
5 register tape at the end of a day or shift or a report documenting every action at an
6 electronic cash register that is stored electronically.

7 (b) *Automated sales suppression devices and phantomware.* Any person who
8 creates, designs, manufactures, sells, purchases, leases, installs, updates, repairs,
9 services, transfers, uses, or possesses in this state phantomware or an automated
10 sales suppression device, unless for a legitimate purpose, is guilty of a Class D felony.

11 **SECTION 8.** 72.06 of the statutes is amended to read:

12 **72.06** Sections 71.78 (1), (1g), (1m), and (4) to (9) and 71.83 (2) (a) 3. and 3m.
13 apply to any information obtained from any person by the department on a death tax
14 return, report, schedule, exhibit or other document or from an audit report
15 pertaining to the tax return.

16 **SECTION 9.** 73.03 (51b) of the statutes is created to read:

17 73.03 **(51b)** To revoke all permits, licenses, and certificates that the
18 department has issued to a person for up to 10 years for violating s. 71.83 (6) (b).

19 **SECTION 10.** 77.61 (5) (am) of the statutes is created to read:

20 77.61 **(5)** (am) Notwithstanding par. (a), an employee of the department may,
21 in connection with the employee's official duties, disclose information derived from
22 a return specified in par. (a) to the extent that the disclosure is necessary for the
23 enforcement of the tax laws of this state. The disclosure shall be limited to the
24 information relevant to a particular matter in connection with an audit, collection,
25 inspection, or investigation.

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1 **SECTION 11.** 77.61 (5) (b) 2. of the statutes is amended to read:

2 77.61 (5) (b) 2. The attorney general and department of justice employees. A
3 department of justice employee may, in connection with the employee's official
4 duties, disclose information derived under this subdivision to a law enforcement
5 investigator participating in a department of justice investigation. The disclosure
6 shall be limited to the information relevant to a particular matter in connection with
7 the department of justice investigation.

8 **SECTION 12.** 77.61 (5) (b) 15. of the statutes is created to read:

9 77.61 (5) (b) 15. A federal grand jury or grand jury of this state, upon receipt
10 by the department of a grand jury subpoena.

11 **SECTION 13.** 77.61 (5) (c) of the statutes is amended to read:

12 77.61 (5) (c) Copies of sales tax or use tax returns, schedules, exhibits, writings
13 or audit reports shall not be furnished to the persons listed under par. (b), except
14 persons under par. (b) 5. or 15. or under an agreement between the department and
15 another agency of government.

16 **SECTION 14.** 77.61 (5) (d) of the statutes is amended to read:

17 77.61 (5) (d) The use of information obtained under par. (b) or (c) is restricted
18 to the discharge of duties imposed upon the persons by law or by the duties of their
19 office or by order of a court as specified under par. (b) 6, or 15.

20 **SECTION 15.** 78.80 (3) of the statutes is amended to read:

21 78.80 (3) Sections 71.78 (1), (1g), and (4) to (9) and 71.83 (2) (a) 3., relating to
22 confidentiality of income and franchise tax returns, apply to any information
23 obtained from any person on a motor vehicle fuel, general aviation fuel or alternate
24 fuels tax return, report, schedule, exhibit, or other document or from an audit report
25 pertaining to the same.

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1 **SECTION 16.** 125.02 (1c) of the statutes is created to read:

2 125.02 (1c) “Alcohol vapor device” means any device that provides for the use
3 of air or oxygen bubbled through an alcohol beverage to produce a vapor or mist that
4 allows the user to inhale this alcoholic vapor through the mouth or nose.

5 **SECTION 17.** 125.04 (4) of the statutes is amended to read:

6 125.04 (4) LIST OF LICENSEES. By July 15 annually, the clerk of a municipality
7 issuing licenses shall mail to the department a list containing the name, address, and
8 trade name of each person holding a license issued by that municipality, other than
9 a manager’s or operator’s license or a license issued under s. 125.26 (6), the type of
10 license held, and, if the person holding the license is a corporation or limited liability
11 company, the name of the agent appointed under sub. (6). The department shall
12 annually publish this list on the department’s Internet site.

13 **SECTION 18.** 125.04 (8m) of the statutes is created to read:

14 125.04 (8m) PAYMENT OF CRIMINAL HISTORY FEES. Any fees incurred by the
15 department under s. 165.82 (1) (am) for purposes of verifying a permit applicant’s
16 eligibility under sub. (5) (a) 1. and (b) shall be paid by the applicant to the department
17 upon application for the permit.

18 **SECTION 19.** 125.09 (8) of the statutes is created to read:

19 125.09 (8) ALCOHOL VAPOR DEVICES. No person may use or offer for use, possess,
20 or sell or offer for sale in this state an alcohol vapor device.

21 **SECTION 20.** 125.09 (9) of the statutes is created to read:

22 125.09 (9) POSSESSION OF STILL. (a) Subject to par. (b), no person may possess
23 any still, leach tub, or other apparatus for manufacturing, rectifying, distilling,
24 refining, or purifying intoxicating liquor other than wine. The possession of any such
25 still, leach tub, or other apparatus is prima facie evidence of possession for the

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1 purpose of manufacturing, rectifying, distilling, refining, or purifying of intoxicating
2 liquor other than wine.

3 (b) Paragraph (a) does not apply to any of the following:

4 1. A person issued a manufacturer's or rectifier's permit under s. 125.52.

5 2. A person that has registered a distilled spirits plant under 26 USC 5171.

6 3. A person that has registered the still or distilling apparatus under 26 USC
7 5179.

8 (c) Any person who violates par. (a) shall be subject to the same penalty
9 specified in s. 125.04 (13).

10 **SECTION 21.** 125.112 of the statutes is created to read:

11 **125.112 Administrative forfeitures for violations.** (1) (a) The department
12 may directly assess against a person, for the person's violation as described in sub.
13 (6), a forfeiture in the amount specified in sub. (6).

14 (b) The authority of the department to assess a forfeiture against a person
15 under this section is in addition to the department's authority under s. 125.12 and
16 any other authority or power of the department under this chapter or ch. 139 and in
17 addition to any other penalty under this chapter, except that a person may not be
18 both assessed a forfeiture under this section and subject to a court-imposed fine,
19 forfeiture, or imprisonment under this chapter arising from the same violation.

20 (2) If the department determines that a forfeiture should be assessed for a
21 violation identified in sub. (6), the department shall issue a notice of assessment to
22 the person alleged to have committed the violation. The notice shall specify the
23 amount of the forfeiture assessed and the alleged violation, including the statute
24 alleged to have been violated, and shall inform the person of the right to hearing
25 under sub. (3) (a).

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1 **(3)** (a) A person upon whom a forfeiture is imposed may contest the assessment
2 by sending, within 30 days after receipt of notice of the assessment, a written request
3 for hearing under s. 227.44 to the division of hearings and appeals in the department
4 of administration. The administrator of the division of hearings and appeals may
5 designate a hearing examiner to preside over the case and recommend a decision to
6 the administrator under s. 227.46. The decision of the administrator of the division
7 of hearings and appeals shall be the final administrative decision. The division of
8 hearings and appeals shall commence the hearing within 30 days of receipt of the
9 request for hearing and shall issue a final decision within 15 days after the close of
10 the hearing. Proceedings before the division of hearings and appeals are governed
11 by ch. 227. In any petition for judicial review of a decision by the division of hearings
12 and appeals, the party, other than the petitioner, who was in the proceeding before
13 the division of hearings and appeals shall be the named respondent.

14 (b) In addition to or in lieu of requesting a hearing under par. (a), a person
15 issued a notice of assessment under sub. (2) may settle the matter by agreeing to an
16 offer in compromise with the department under which the person pays to the
17 department a forfeiture of less than the amount stated in the notice of assessment
18 but not less than the minimum applicable forfeiture amount specified in sub. (6) for
19 the violation.

20 **(4)** All forfeitures shall be paid to the department within 60 days after receipt
21 of the notice of assessment or according to a schedule agreed to by the department
22 and the person issued the notice of assessment or, if the forfeiture is contested under
23 sub. (3), within 10 days after receipt of the final decision after exhaustion of all
24 administrative and judicial reviews. The department shall remit all forfeitures paid
25 to the secretary of administration for deposit in the school fund.

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1 (5) The attorney general may bring an action in the name of the state to collect
2 any forfeiture imposed under this section if the forfeiture has not been paid following
3 the exhaustion of all administrative and judicial reviews. The only issue to be
4 contested in any such action is whether the forfeiture amount has been paid.

5 (6) (a) The department may assess forfeitures under this section for the
6 following violations in the following amounts:

7 1. For a violation of s. 125.07 (2) (a) or (3) (a) or (b) or 125.65 or a rule
8 promulgated under s. 125.03 (1) (a) or (2), not more than \$100 for a first violation,
9 not less than \$100 nor more than \$250 for a 2nd violation, and not less than \$250 nor
10 more than \$500 for a 3rd or subsequent violation.

11 2. For a violation of s. 125.04 (3) (j) or (10), 125.06 (13) (a), 125.09 (3), (6), (7),
12 or (8), 125.27 (2) (e), 125.272, 125.28 (1) (d), 125.32 (3), (5), (6), or (7), 125.33 (1), (5),
13 (6), (7) (a), (7m), (8), (11) (a), (12), or (13), 125.34 (2), (3), (4), (5), or (6), 125.51 (4) (am),
14 (5) (c) 4., (6), or (7), 125.535 (4), (5), or (6), 125.54 (3), (5), or (8), 125.68 (4), (10) (a),
15 or (11) (b), or 125.69 (3), (4) (a), or (5), not more than \$250 for a first violation, not less
16 than \$250 nor more than \$500 for a 2nd violation, and not less than \$500 nor more
17 than \$1,000 for a 3rd or subsequent violation.

18 3. For a violation of s. 125.04 (1), 125.09 (1) or (9), 125.105 (1), 125.28 (5),
19 125.315 (1), 125.32 (2), 125.33 (9), 125.54 (7) (a) or (b), 125.545 (4) or (7), 125.66 (1),
20 125.67, or 125.68 (2), not more than \$1,000 for a first violation, not less than \$1,000
21 nor more than \$2,500 for a 2nd violation, and not less than \$2,500 nor more than
22 \$10,000 for a 3rd or subsequent violation.

23 4. For a violation of s. 125.07 (1) (a), an amount consistent with the forfeitures
24 or fines provided under s. 125.07 (1) (b).

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1 5. For a violation of s. 125.07 (4) (a), an amount consistent with the forfeitures
2 provided under s. 125.07 (4) (bs).

3 6. For a violation of s. 125.07 (4) (b), an amount consistent with the forfeitures
4 provided under s. 125.07 (4) (c).

5 7. For a violation of s. 125.085 (3) (a) 1., an amount consistent with the fines
6 provided under s. 125.085 (3) (a).

7 8. For a violation of s. 125.085 (3) (b), an amount consistent with the forfeitures
8 provided under s. 125.085 (3) (bd).

9 9. For a violation of s. 125.09 (2), an amount consistent with the forfeitures
10 provided under s. 125.09 (2) (d).

11 10. For a violation of s. 125.66 (4), an amount consistent with the fines provided
12 under s. 125.66 (4).

13 11. For a violation of s. 125.68 (8), an amount consistent with the fines provided
14 under s. 125.68 (8) (a).

15 12. For a violation of s. 125.68 (9), an amount consistent with the fines provided
16 under s. 125.68 (9) (g).

17 13. For a violation of s. 125.68 (10) (b), an amount consistent with the forfeiture
18 provided under s. 125.68 (10) (b).

19 14. For a violation of s. 125.69 (6), an amount consistent with the forfeitures
20 or fines provided under s. 125.69 (6).

21 (b) For purposes of par. (a), a violation is considered to be a separate violation
22 if the act or omission giving rise to it did not arise out of the same incident or
23 occurrence.

24 **SECTION 22.** 125.12 (7) of the statutes is created to read:

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1 125.12 (7) REAPPLICATION FOR PERMIT AFTER REVOCATION OR REFUSAL TO ISSUE OR
2 RENEW. If the department refuses to issue, refuses to renew, or revokes any permit
3 issued under this chapter, the applicant or permit holder may not reapply for the
4 permit for a period of 12 months after the date of the refusal to issue, refusal to renew,
5 or revocation.

6 **SECTION 23.** 134.65 (1g) of the statutes is created to read:

7 134.65 (1g) (a) The department of revenue shall create an application form for
8 licenses issued under sub. (1). The form shall require all of the following information
9 from an applicant:

10 1. The applicant's history relevant to the applicant's fitness to hold a license
11 under sub. (1).

12 2. The kind of license for which the applicant is applying.

13 3. The premises where cigarettes or tobacco products will be sold or stored.

14 4. If the applicant is a corporation, the identity of the corporate officers and
15 agent.

16 5. If the applicant is a limited liability company, the identity of the company
17 members or managers and agent.

18 6. The applicant's trade name, if any.

19 7. Whether the applicant will sell, exchange, barter, dispose of, or give away
20 the cigarette or tobacco products over the counter or in a vending machine, or both.

21 8. Any other information required by the department of revenue.

22 (b) The department of revenue shall make the form prepared under this
23 subsection available to all cities, villages, and towns.

24 (c) An applicant for a license under sub. (1) shall use the form prepared under
25 this subsection.

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1 (d) An application for a license under sub. (1) shall be signed by the applicant
2 and the applicant shall submit the application to the clerk of the city, village, or town
3 where the intended place of sale is located.

4 (e) Within 10 days of any change in any fact set forth in an application for a
5 license under sub. (1), the applicant or licensee shall file a written description of the
6 change with the clerk of the city, village, or town where the application was
7 submitted.

8 (f) Any person may inspect applications for a license under sub. (1). The clerk
9 of a city, village, or town where such applications are submitted shall retain all
10 applications, except that the clerk may destroy any application that is 4 or more
11 years old.

12 **SECTION 24.** 134.65 (1m) of the statutes is renumbered 134.65 (1m) (a) (intro.)
13 and amended to read:

14 134.65 **(1m)** (a) (intro.) A city, village, or town clerk may not issue a license
15 under sub. (1) unless the applicant ~~specifies in the license application whether the~~
16 ~~applicant will sell, exchange, barter, dispose of, or give away the cigarette or tobacco~~
17 ~~products over the counter or in a vending machine, or both.~~ meets all of the following
18 requirements:

19 **SECTION 25.** 134.65 (1m) (a) 1., 2. and 3. of the statutes are created to read:

20 134.65 **(1m)** (a) 1. Subject to ss. 111.321, 111.322, and 111.335, the applicant
21 has not habitually been a law offender or been convicted of a felony unless pardoned.

22 2. The applicant has submitted the proof required under s. 77.61 (11).

23 3. The applicant has attained the age of 18.

24 **SECTION 26.** 134.65 (1m) (b) of the statutes is created to read:

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1 134.65 (1m) (b) The requirements under par. (a) apply to all partners of a
2 partnership, all members of a limited liability company, all agents of a limited
3 liability company or corporation, and all officers of a corporation. Subject to ss.
4 111.321, 111.322, and 111.335, if a business entity has been convicted of a crime, the
5 entity may not be issued a license under sub. (1) unless the entity has terminated its
6 relationship with the individuals whose actions directly contributed to the
7 conviction.

8 **SECTION 27.** 134.65 (2m) of the statutes is created to read:

9 134.65 (2m) Annually, no later than July 15, the clerk of a city, village, or town
10 issuing licenses under sub. (1) shall submit to the department of revenue, in a
11 manner prescribed by the department, a list of licenses issued by the city, village, or
12 town under sub. (1) during the previous fiscal year. The list shall include the name,
13 address, seller's permit number, and trade name of the licensee and the type of
14 license held. The department of revenue shall publish this list annually on the
15 department's Internet site.

16 **SECTION 28.** 134.65 (3m) of the statutes is created to read:

17 134.65 (3m) A person holding a license under sub. (1) shall enclose the license
18 in a frame that has a transparent front that allows the license to be read clearly. The
19 licensee shall conspicuously display the license for public inspection at all times in
20 the room or place where the activity subject to licensure is carried out.

21 **SECTION 29.** 139.11 (4) (a) (intro.) of the statutes is amended to read:

22 139.11 (4) (a) (intro.) Sections 71.78 (1), (1g), (1m), and (4) to (9) and 71.83 (2)
23 (a) 3. and 3m., relating to confidentiality of income and franchise tax returns, apply
24 to any information obtained from any person on a fermented malt beverage tax
25 return, report, schedule, exhibit, or other document or from an audit report relating

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1 to any of those documents, except that the department of revenue shall publish the
2 following:

3 **SECTION 30.** 139.38 (6) of the statutes is amended to read:

4 139.38 (6) Sections 71.78 (1), (1g), (1m), and (4) to (9) and 71.83 (2) (a) 3. and
5 3m., relating to confidentiality of income and franchise tax returns, apply to any
6 information obtained from any person on a cigarette tax return, report, schedule,
7 exhibit, or other document or from an audit report pertaining to the return, report,
8 schedule, exhibit, or document, except that the department shall publish on its
9 Internet site, at least quarterly, a current list of permits issued to distributors and
10 jobbers under s. 139.34 and include on the list the name and address of the permit
11 holder and the date on which the department issued the permit.

12 **SECTION 31.** 139.44 (2) of the statutes is amended to read:

13 139.44 (2) Any person who makes or signs any false or fraudulent report ~~or who~~
14 ~~attempts to evade the tax imposed by s. 139.31 or 139.76, or who aids in or abets the~~
15 ~~evasion or attempted evasion of that tax~~ may be fined not more than \$10,000 or
16 imprisoned for not more than 9 months or both.

17 **SECTION 32.** 139.44 (2m) of the statutes is created to read:

18 139.44 (2m) Any person who evades or attempts to evade, or who aids or abets
19 the evasion or attempted evasion of, a tax imposed under s. 139.31 or 139.76 is guilty
20 of the following:

21 (a) A Class A misdemeanor if the amount of the tax is no more than \$2,500.

22 (b) A Class I felony if the amount of the tax is more than \$2,500, but no more
23 than \$5,000.

24 (c) A Class H felony if the amount of the tax is more than \$5,000, but no more
25 than \$10,000.

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1 (d) A Class G felony if the amount of the tax is more than \$10,000, but no more
2 than \$100,000.

3 (e) A Class F felony if the amount of the tax is more than \$100,000.

4 **SECTION 33.** 139.44 (8) (a), (b) and (c) of the statutes are amended to read:

5 139.44 (8) (a) If the number of cigarettes does not exceed 6,000, ~~a fine of 3,000,~~
6 the person may be fined not more than \$200 ~~\$1,000~~ or imprisonment imprisoned for
7 not more than ~~6 months~~ one year or both.

8 (b) If the number of cigarettes exceeds 6,000 3,000 but does not exceed ~~36,000,~~
9 ~~a fine of not more than \$1,000 or imprisonment for not more than one year in the~~
10 ~~county jail or both~~ 5,000, the person is guilty of a Class I felony.

11 (c) If the number of cigarettes exceeds ~~36,000~~ 5,000 but does not exceed 10,000,
12 the person is guilty of a Class ~~I~~ H felony.

13 **SECTION 34.** 139.44 (8) (d) of the statutes is created to read:

14 139.44 (8) (d) If the number of cigarettes exceeds 10,000, the person is guilty
15 of a Class F felony.

16 **SECTION 35.** 139.82 (6) of the statutes is amended to read:

17 139.82 (6) Sections 71.78 (1), (1g), (1m), and (4) to (9) and 71.83 (2) (a) 3. and
18 3m., relating to confidentiality of income and franchise tax returns, apply to any
19 information obtained from any person on a cigarette tax return, report, schedule,
20 exhibit, or other document or from an audit report pertaining to the return, report,
21 schedule, exhibit, or document, except that the department shall publish on its
22 Internet site, at least quarterly, a current list of permits issued to distributors and
23 jobbers under s. 139.34 and include on the list the name and address of the permit
24 holder and the date on which the department issued the permit.

25 **SECTION 36.** 227.43 (1) (bt) of the statutes is created to read:

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1 227.43 (1) (bt) Assign a hearing examiner to preside over any hearing of a
2 contested case under s. 125.112 (3).

3 **SECTION 37.** 227.43 (3) (bt) of the statutes is created to read:

4 227.43 (3) (bt) The administrator of the division of hearings and appeals may
5 set the fees to be charged for any services rendered to the department of revenue by
6 a hearing examiner under this section. The fee shall cover the total cost of the
7 services.

8 **SECTION 38.** 227.43 (4) (bt) of the statutes is created to read:

9 227.43 (4) (bt) The department of revenue shall pay all costs of the services of
10 a hearing examiner assigned under sub. (1) (bt), according to the fees set under sub.
11 (3) (bt).

12 **SECTION 39.** 227.52 (1) of the statutes is amended to read:

13 227.52 (1) Decisions of the department of revenue other than decisions relating
14 to alcohol beverage permits issued under ch. 125 or forfeitures assessed by the
15 department under s. 125.112.

16 **SECTION 40.** 565.17 (5) (a) of the statutes is amended to read:

17 565.17 (5) (a) ~~No~~ Except as provided under par. (d), no employee in the lottery
18 division of the department or the secretary, deputy secretary, or assistant deputy
19 secretary of revenue and no member of such a person's immediate family, as defined
20 in s. 19.42 (7), may purchase a lottery ticket or lottery share.

21 **SECTION 41.** 565.17 (5) (d) of the statutes is created to read:

22 565.17 (5) (d) An employee in the lottery division of the department may
23 purchase a lottery ticket or lottery share if the purchase is on behalf of the lottery
24 division of the department and is a part of an official lottery investigation. No person
25 may share or assign a lottery ticket or lottery share purchased under this paragraph

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1 and no person may claim any prize or winnings from a lottery ticket or lottery share
2 purchased under this paragraph.

3 **SECTION 42.** 565.50 (2) of the statutes is amended to read:

4 565.50 (2) Any person who alters ~~or~~, forges, counterfeits, or illegally obtains a
5 lottery ticket or share or intentionally utters or transfers an altered ~~or~~, forged,
6 counterfeit, or illegally obtained lottery ticket or share is guilty of a Class I felony.

7 **SECTION 43.** 565.50 (3) of the statutes is amended to read:

8 565.50 (3) Any person who possesses an altered ~~or~~, forged, counterfeit, or
9 illegally obtained lottery ticket or share, or a winning lottery ticket or share for which
10 the prize has been previously claimed, with intent to defraud shall be fined not more
11 than \$10,000 or imprisoned for not more than 9 months or both.

12 **SECTION 44.** 565.50 (4) of the statutes is created to read:

13 565.50 (4) Any person who transfers a lottery ticket or share to another person,
14 presents a transferred lottery ticket or share for payment of a lottery prize, or claims
15 a lottery prize from a transferred ticket or share with intent to avoid withholding
16 under s. 565.30 (4), (5), (5m), or (5r) shall be fined not more than \$10,000 or
17 imprisoned for not more than 9 months or both.

18 **SECTION 45.** 946.82 (4) of the statutes is amended to read:

19 946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961
20 (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission
21 of any of the felonies specified in: chs. 945 and 961, subch. V of ch. 551, and ss. 49.49,
22 134.05, 139.44 (1), (2m), and (8), 180.0129, 181.0129, 185.825, 201.09 (2), 215.12,
23 221.0625, 221.0636, 221.0637, 221.1004, 553.41 (3) and (4), 553.52 (2), 940.01, 940.19
24 (4) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.302 (2), 940.305, 940.31,
25 941.20 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d),

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1 or (2g), 943.011, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10,
2 943.20 (3) (bf) to (e), 943.201, 943.203, 943.23 (1g), (2) and (3), 943.24 (2), 943.27,
3 943.28, 943.30, 943.32, 943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40, 943.41
4 (8) (b) and (c), 943.50 (4) (bf), (bm), and (c) and (4m), 943.60, 943.70, 943.76, 943.81,
5 943.82, 943.83, 943.84, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 944.21 (5) (c)
6 and (e), 944.32, 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10, 946.11,
7 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72,
8 946.76, 946.79, 947.015, 948.05, 948.051, 948.08, 948.12, and 948.30.

9 (END)