

1977 Assembly Bill 714

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CHAPTER 289, Laws of 1977

AN ACT to repeal 78.83 and subchapter III (title) of chapter 139; to renumber 139.60; to amend 78.68 (1) (a) and (b), chapter 139 (title), 139.08 (3) and 139.33 (3) and (4); to repeal and recreate 78.80 (3); and to create 97.18 (5m), 139.33 (5) and 139.38 (6) of the statutes, relating to the confidentiality of motor and special fuel, cigarette and intoxicating beverage tax information, procedures in demanding tax reports from motor and special fuel nonfilers, cigarette tax enforcement, transferring oleomargarine regulation from the department of revenue to the department of agriculture and providing penalties.

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

SECTION 1. 78.68 (1) (a) and (b) of the statutes are amended to read:

78.68 (1) (a) If any licensee fails, neglects or refuses to file a motor fuel or special fuel tax report for any calendar month when due, the department shall send a written demand to file such report to the licensee by registered certified mail addressed to said the licensee at the address of the licensee's principal place of business of said licensee within 10 days after the due filing date of said report. A penalty of \$5 is hereby imposed for failure, neglect or refusal to file such report when due and if. If such report is not filed and the penalty paid within 20 10 days from the date when such report was due the licensee received the department's demand the license of said the licensee shall be automatically revoked.

(b) If any licensee fails, neglects or refuses to make tax payment for any calendar month when due, the department shall send a written demand for payment to the licensee by ~~registered certified~~ mail addressed to ~~said the~~ licensee at the address of the ~~licensee's~~ principal place of business of ~~said licensee~~. A penalty of \$10 is ~~hereby~~ imposed for the first failure, neglect or refusal within a calendar year to make such tax payment when due and a penalty of 2% of the ~~amount of~~ tax due but not less than \$10 is ~~hereby~~ imposed for each successive failure, neglect or refusal to make such tax payment when due within the same calendar year. If tax remittance was made when due but by a defective bank check, the department may waive the penalty if it appears to the department that the defect was not intentional and the defect is corrected promptly. If such tax and penalty are not paid within 20 10 days from the date ~~when due the licensee received the department's demand~~, the license of ~~said the~~ licensee shall be automatically revoked and the department shall determine the amount of tax due and shall proceed to collect ~~such the~~ motor fuel or special fuel tax and penalty as provided in this chapter.

SECTION 2. 78.80 (3) of the statutes is repealed and recreated to read:

78.80 (3) Section 71.11 (44) (a), (c) and (d), relating to confidentiality of income and gift tax returns, applies to any information obtained from any person on a motor fuel or special fuel tax return, report, schedule, exhibit or other document or from an audit report pertaining to the same.

SECTION 3. 78.83 of the statutes is repealed.

SECTION 3m. 97.18 (5m) of the statutes is created to read:

97.18 (5m) The department of health and social services shall assist the department in the enforcement of this section and, in connection with inspections of food service operations at institutions and establishments under its inspectional jurisdiction, conduct compliance inspections and surveys, and report violations directly to the department.

SECTION 4. Chapter 139 (title) of the statutes is amended to read:

CHAPTER 139

BEVERAGE, AND CIGARETTE AND OLEOMARGARINE TAXES

SECTION 5. 139.08 (3) of the statutes is amended to read:

139.08 (3) POLICE POWERS. The department of revenue shall enforce ~~ss. 66.054, 139.01 to 139.25 and ch. 176.~~ The and the duly authorized employes of the department of revenue shall have all necessary police powers to prevent violations of ss. 66.054, 134.65 and 139.01 to 139.25 139.44 and ch. 176.

SECTION 7. 139.33 (3) and (4) of the statutes are amended to read:

139.33 (3) No person other than a licensed distributor shall may import into this state more than 400 cigarettes on which the occupational tax imposed by s. 139.31 has not been paid and the container of which does not bear proper stamps. Within 3 15 days, any such person importing cigarettes shall file with the department a declaration of such cigarettes imported and shall remit therewith the amount of the tax on such cigarettes as herein imposed. The secretary shall then issue a receipt for such taxes so paid identifying the taxpayer and the cigarettes, except that members by this section. Members of the armed forces shall not be required to report or pay the tax on cigarettes in their possession if such cigarettes are issued to them by the U. S. government or any of its subdivisions or were purchased in any armed forces post exchange or service store. If the use tax imposed by this section is not paid when due, it shall become delinquent and the person liable for it shall pay, in addition, a penalty of \$25 for each 200 cigarettes. Interest on the delinquent tax and penalty shall accrue at the rate of 1.5% per month or each fraction of a month from the date the tax became due until paid.

(4) Sections 139.30 to 139.44 relating to collection and enforcement of the tax shall apply with like effect to the occupational tax imposed by s. 139.31 and applies to enforcement of the use tax imposed by this section.

SECTION 8. 139.33 (5) of the statutes is created to read:

139.33 (5) Sections 71.10 (10) (d) to (g), 71.11 (16), (17), (19), (20), (22) and (23), 71.12 to 71.135, 73.01 and 73.015 apply to the administration of this section.

SECTION 9. 139.38 (6) of the statutes is created to read:

139.38 (6) Section 71.11 (44) (a), (c) and (d), relating to confidentiality of income and gift tax returns, applies to any information obtained from any person on a cigarette tax return, report, schedule, exhibit or other document or from an audit report pertaining to the same.

SECTION 10. Subchapter III (title) of chapter 139 of the statutes is repealed.

SECTION 11. 139.60 of the statutes is renumbered 97.18.

SECTION 11m. **Reconciliation.** If chapter (Assembly Bill 1220), laws of 1977, renumbers section 71.11 (44) (d) of the statutes to be section 71.11 (44) (h) of the statutes and creates section 71.11 (44) (d) to (g) of the statutes, the references to section "71.11 (44) (a), (c) and (d)" found in sections 78.80 (3) and 139.38 (6) of the statutes, as affected by this act, are changed to references to section "71.11 (44) (a) and (c) to (h)".

SECTION 12. **Effective date.** The treatment of section 139.33 (3) to (5) of the statutes by this act takes effect on the first day of the 2nd month commencing after its publication.
