

HOUSE BILL No. 5332

October 23, 2001, Introduced by Reps. Bisbee, LaSata, Ehardt, Gilbert, Van Woerkom and Meyer and referred to the Committee on Tax Policy.

A bill to amend 1941 PA 122, entitled

"An act to establish a revenue division of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to regulate the importation, stamping, and disposition of certain tobacco products; to create the position and to define the powers and duties of the state commissioner of revenue; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; to prescribe penalties and provide remedies; and to declare the effect of this act,"

by amending section 28 (MCL 205.28), as amended by 2000 PA 308.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 28. (1) The following conditions apply to all taxes
2 administered under this act unless otherwise provided for in the
3 specific tax statute:

4 (a) Notice, if required, shall be given either by personal
5 service or by certified mail addressed to the last known address
6 of the taxpayer. Service upon the commissioner may be made in
7 the same manner.

8 (b) An injunction shall not issue to stay proceedings for
9 the assessment and collection of a tax.

10 (c) In addition to the mode of collection provided in this
11 act, the department may institute an action at law in any county
12 in which the taxpayer resides or transacts business.

13 (d) The commissioner may request in writing information or
14 records in the possession of any other department, institution,
15 or agency of state government for the performance of duties under
16 this act. Departments, institutions, or agencies of state gov-
17 ernment shall furnish the information and records upon receipt of
18 the commissioner's request. Upon request of the commissioner,
19 any department, institution, or agency of state government shall
20 hold a hearing under the administrative procedures act of 1969,
21 1969 PA 306, MCL 24.201 to 24.328, to consider withholding a
22 license or permit of a person for nonpayment of taxes or accounts
23 collected under this act.

24 (e) Except as otherwise provided in SUBSECTION (5) OR sec-
25 tion 30c, the commissioner or an employee of the department shall
26 not compromise or reduce in any manner the taxes due to or
27 claimed by this state or unpaid accounts or amounts due to any

1 department, institution, or agency of state government. This
2 subdivision does not prevent a compromise of interest or penal-
3 ties, or both.

4 (f) Except as otherwise provided in this subdivision, an
5 employee, authorized representative, or former employee or autho-
6 rized representative of the department or anyone connected with
7 the department shall not divulge any facts or information
8 obtained in connection with the administration of a tax or infor-
9 mation or parameters that would enable a person to ascertain the
10 audit selection or processing criteria of the department for a
11 tax administered by the department. An employee or authorized
12 representative shall not willfully inspect any return or informa-
13 tion contained in a return unless it is appropriate for the
14 proper administration of a tax law administered under this act.
15 A person may disclose information described in this subdivision
16 if the disclosure is required for the proper administration of a
17 tax law administered under this act, pursuant to a judicial order
18 sought by an agency charged with the duty of enforcing or inves-
19 tigating support obligations pursuant to an order of a court in a
20 domestic relations matter as that term is defined in section 2 of
21 the friend of the court act, 1982 PA 294, 552.502, or pursuant to
22 a judicial order sought by an agency of the federal, state, or
23 local government charged with the responsibility for the adminis-
24 tration or enforcement of criminal law for purposes of investi-
25 gating or prosecuting criminal matters or for federal or state
26 grand jury proceedings or a judicial order if the taxpayer's
27 liability for a tax administered under this act is to be

1 adjudicated by the court that issued the judicial order. A
2 person may disclose the adjusted gross receipts and the wagering
3 tax paid by a casino licensee licensed under the Michigan gaming
4 control and revenue act, the Initiated Law of 1996, MCL 432.201
5 to 432.226, pursuant to section 18, sections 341, 342, and 386 of
6 the management and budget act, 1984 PA 431, MCL 18.1341, 18.1342,
7 and 18.1386, or authorization by the executive director of the
8 gaming control board. However, the commissioner or a person des-
9 ignated by the commissioner may divulge information set forth or
10 disclosed in a return or report or by an investigation or audit
11 to any department, institution, or agency of state government
12 upon receipt of a written request from a head of the department,
13 institution, or agency of state government if it is required for
14 the effective administration or enforcement of the laws of this
15 state, to a proper officer of the United States department of
16 treasury, and to a proper officer of another state reciprocating
17 in this privilege. The commissioner may enter into reciprocal
18 agreements with other departments of state government, the United
19 States department of treasury, local governmental units within
20 this state, or taxing officials of other states for the enforce-
21 ment, collection, and exchange of data after ascertaining that
22 any information provided will be subject to confidentiality
23 restrictions substantially the same as the provisions of this
24 act.

25 (2) A person who violates subsection (1)(e) or (1)(f) is
26 guilty of a felony, punishable by a fine of not more than
27 \$5,000.00, or imprisonment for not more than 5 years, or both,

1 together with the costs of prosecution. In addition, if the
2 offense is committed by an employee of this state, the person
3 shall be dismissed from office or discharged from employment upon
4 conviction.

5 (3) A person liable for any tax administered under this act
6 shall keep accurate and complete records necessary for the proper
7 determination of tax liability as required by law or rule of the
8 department.

9 (4) As used in subsection (1), "adjusted gross receipts" and
10 "wagering tax" mean those terms as described in the Michigan
11 gaming control and revenue act, the Initiated Law of 1996,
12 MCL 432.201 to 432.226.

13 (5) THE COMMISSIONER OR AN EMPLOYEE OF THE DEPARTMENT AUTHO-
14 RIZED BY THE COMMISSIONER MAY REDUCE OR COMPROMISE ANY TAXES DUE,
15 INCLUDING INTEREST AND PENALTIES, IF THE COMMISSIONER OR AN
16 EMPLOYEE OF THE DEPARTMENT AUTHORIZED BY THE COMMISSIONER DETER-
17 MINES THAT THE TAXES DUE ARE OTHERWISE UNCOLLECTIBLE. HOWEVER,
18 AS A CONDITION OF REDUCING OR COMPROMISING TAXES, INCLUDING
19 INTEREST AND PENALTIES, THE COMMISSIONER MAY PROVIDE THAT IF THE
20 TAXPAYER'S FINANCIAL CONDITION IMPROVES WITHIN 4 YEARS FROM THE
21 DATE OF THE REDUCTION OR COMPROMISE, THEN ALL OR A PORTION OF THE
22 REDUCED OR COMPROMISED TAXES, INCLUDING INTEREST AND PENALTIES,
23 MAY BECOME DUE AND PAYABLE, AS DETERMINED BY THE COMMISSIONER.