

HOUSE BILL No. 4886

May 5, 2009, Introduced by Reps. Nathan, Cushingberry, Tlaib, Durhal, Bettie Scott, Johnson, Geiss, Stanley, Lemmons, Polidori, Constan, Leland, Young, Lipton, Kennedy, Womack and Jackson and referred to the Committee on Judiciary.

A bill to amend 1941 PA 122, entitled

"An act to establish the revenue collection duties of the department of treasury; to prescribe its powers and duties as the revenue collection agency of this state; to prescribe certain powers and duties of the state treasurer; to establish the collection duties of certain other state departments for money or accounts owed to this state; to regulate the importation, stamping, and disposition of certain tobacco products; 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 2003 PA 114.

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 of
6 the taxpayer. Service upon the department may be made in the same
7 manner.

8 (b) An injunction shall not issue to stay proceedings for the
9 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 in
12 which the taxpayer resides or transacts business.

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

24 (e) Except as otherwise provided in section 30c, the state
25 treasurer or an employee of the department shall not compromise or
26 reduce in any manner the taxes due to or claimed by this state or
27 unpaid accounts or amounts due to any department, institution, or

1 agency of state government. This subdivision does not prevent a
2 compromise of interest or penalties, or both.

3 (f) Except as otherwise provided in this subdivision, an
4 employee, authorized representative, or former employee or
5 authorized representative of the department or anyone connected
6 with the department shall not divulge any facts or information
7 obtained in connection with the administration of a tax or
8 information or parameters that would enable a person to ascertain
9 the audit selection or processing criteria of the department for a
10 tax administered by the department. An employee or authorized
11 representative shall not willfully inspect any return or
12 information contained in a return unless it is appropriate for the
13 proper administration of a tax law administered under this act. A
14 person may disclose information described in this subdivision if
15 the disclosure is required for the proper administration of a tax
16 law administered under this act or the general property tax act,
17 1893 PA 206, MCL 211.1 to ~~211.157~~ **211.155**, pursuant to a judicial
18 order sought by an agency charged with the duty of enforcing or
19 investigating support obligations pursuant to an order of a court
20 in a domestic relations matter as that term is defined in section 2
21 of the friend of the court act, 1982 PA 294, MCL 552.502, or
22 pursuant to a judicial order sought by an agency of the federal,
23 state, or local government charged with the responsibility for the
24 administration or enforcement of criminal law for purposes of
25 investigating or prosecuting criminal matters or for federal or
26 state 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 person
2 may disclose the adjusted gross receipts and the wagering tax paid
3 by a casino licensee licensed under the Michigan gaming control and
4 revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226,
5 pursuant to section 18 **OF THIS ACT**, 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 state treasurer or a person
9 designated by the state treasurer may divulge information set forth
10 or disclosed in a return or report or by an investigation or audit
11 to any department, institution, or agency of state government upon
12 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 in
17 this privilege. The state treasurer may enter into reciprocal
18 agreements with other departments of state government, the United
19 States department of treasury, local governmental units within this
20 state, or taxing officials of other states for the enforcement,
21 collection, and exchange of data after ascertaining that any
22 information provided will be subject to confidentiality
23 restrictions substantially the same as the provisions of this act.
24 **THE STATE TREASURER MAY DISCLOSE THE NAMES AND ADDRESSES OF**
25 **TAXPAYERS TO THE EXTENT REQUIRED UNDER SECTION 1310B OF THE REVISED**
26 **JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.1310B.**

27 (2) A person who violates subsection (1)(e), (1)(f), or (4) is

1 guilty of a felony, punishable by a fine of not more than
2 \$5,000.00, or imprisonment for not more than 5 years, or both,
3 together with the costs of prosecution. In addition, if the offense
4 is committed by an employee of this state, the person shall be
5 dismissed from office or discharged from employment upon
6 conviction.

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

11 (4) A person who receives information under subsection (1)(f)
12 for the proper administration of the general property tax act, 1893
13 PA 206, MCL 211.1 to ~~211.157~~ **211.155**, shall not willfully disclose
14 that information for any purpose other than the administration of
15 the general property tax act, 1893 PA 206, MCL 211.1 to ~~211.157~~
16 **211.155**. A person who violates this subsection is subject to the
17 penalties provided in subsection (2).

18 (5) As used in subsection (1), "adjusted gross receipts" and
19 "wagering tax" mean those terms as described in the Michigan gaming
20 control and revenue act, the Initiated Law of 1996, MCL 432.201 to
21 432.226.

22 Enacting section 1. This amendatory act does not take effect
23 unless Senate Bill No. ____ or House Bill No. 4885 (request no.
24 02714'09) of the 95th Legislature is enacted into law.