

**SUBSTITUTE FOR
HOUSE BILL NO. 4271**

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 the state; to prescribe certain powers and duties of the state treasurer; 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, and by adding section 3b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 3B. (1) THE DEPARTMENT OF TREASURY MAY DISCLOSE A LIST OF**
2 **ALL TAXPAYERS THAT ARE DELINQUENT IN THE PAYMENT OF TAX LIABILITIES**

1 COLLECTED BY THE DEPARTMENT. THE LIST MAY INCLUDE THOSE TAXPAYERS
2 WITH ACCOUNT BALANCES FOR ALL TAXES COLLECTED BY THE DEPARTMENT
3 INCLUDING PENALTIES AND INTEREST TOTALING GREATER THAN \$75,000.00
4 FOR A PERIOD IN EXCESS OF 120 DAYS FROM THE DATE OF THE FINAL TAX
5 ASSESSMENT. THE LIST MAY CONTAIN THE NAME, LAST KNOWN ADDRESS, AND
6 TOTAL ACCOUNT BALANCE OF EACH DELINQUENT TAXPAYER AND, IN THE CASE
7 OF A BUSINESS TAXPAYER, MAY INCLUDE THE NAME OF ANY TAXPAYERS OR
8 INDIVIDUALS ASSESSED A LIABILITY UNDER SECTION 27A(1) OR (5).

9 (2) NOT LESS THAN 90 DAYS BEFORE THE DISCLOSURE OF THE NAME OF
10 A DELINQUENT TAXPAYER PRESCRIBED IN SUBSECTION (1), THE DEPARTMENT
11 SHALL MAIL A WRITTEN NOTICE TO THE DELINQUENT TAXPAYER AT HIS OR
12 HER LAST KNOWN ADDRESS INFORMING THE TAXPAYER OF THE TOTAL ACCOUNT
13 BALANCE AND THE INTENDED DISCLOSURE OF THE DELINQUENCY. IF THE
14 ACCOUNT BALANCE HAS NOT BEEN PAID WITHIN 60 DAYS AFTER THE NOTICE
15 WAS MAILED AND THE TAXPAYER HAS NOT, SINCE THE MAILING OF THE
16 NOTICE, EITHER ENTERED INTO IN A WRITTEN AGREEMENT WITH THE
17 DEPARTMENT FOR PAYMENT OF THE DELINQUENCY OR CORRECTED A DEFAULT IN
18 AN EXISTING AGREEMENT TO THE SATISFACTION OF THE DEPARTMENT, THE
19 DEPARTMENT MAY DISCLOSE THE TAXPAYER IN THE LIST OF DELINQUENT
20 TAXPAYERS.

21 (3) UNPAID TAXES MAY NOT BE DISCLOSED IF 1 OR MORE OF THE
22 FOLLOWING APPLY:

23 (A) A WRITTEN AGREEMENT FOR PAYMENT EXISTS WITHOUT DEFAULT
24 BETWEEN THE TAXPAYER AND THE DEPARTMENT.

25 (B) THE TAX LIABILITY IS THE SUBJECT OF AN INFORMAL
26 CONFERENCE, ADMINISTRATIVE REVIEW, OR JUDICIAL REVIEW PROVIDED FOR
27 IN THIS ACT, OR AN APPEAL OF ANY OF THESE PROCEEDINGS.

1 (C) THE DEPARTMENT HAS RECEIVED WRITTEN NOTICE THAT THE
2 TAXPAYER HAS FILED FOR BANKRUPTCY PROTECTION.

3 (4) THE LIST MAY BE AVAILABLE FOR PUBLIC INSPECTION AT THE
4 DEPARTMENT AND BY OTHER MEANS OF PUBLICATION, INCLUDING THE
5 INTERNET. IN THE CASE OF A BUSINESS TAXPAYER, THE DEPARTMENT MAY
6 POST WRITTEN NOTICE OF THE DELINQUENCY IN A CONSPICUOUS LOCATION AT
7 THE TAXPAYER'S BUSINESS PREMISES.

8 (5) THE NAME OF A TAXPAYER SHALL BE REMOVED WITHIN 21 DAYS
9 AFTER 1 OF THE FOLLOWING:

10 (A) THE PAYMENT OF THE DEBT.

11 (B) THE DEPARTMENT RECEIVES WRITTEN NOTICE THAT THE TAXPAYER
12 HAS FILED FOR BANKRUPTCY PROTECTION.

13 (C) THE TAXPAYER OTHERWISE MEETS 1 OF THE CONDITIONS DESCRIBED
14 IN SUBSECTION (3) (A) OR (B) .

15 (6) IF THE DEPARTMENT HAS PLACED THE NAME OF A TAXPAYER ON THE
16 LIST ERRONEOUSLY, THE NAME OF THAT TAXPAYER SHALL BE REMOVED WITHIN
17 7 DAYS AFTER THE DEPARTMENT RECEIVES WRITTEN INFORMATION
18 ESTABLISHING THAT THE TAXPAYER WAS LISTED ERRONEOUSLY.

19 (7) ANY DISCLOSURE MADE BY AN EMPLOYEE OF THE DEPARTMENT IN A
20 GOOD FAITH EFFORT TO COMPLY WITH THIS SECTION SHALL NOT BE
21 CONSIDERED A VIOLATION OF ANY STATUTE PROHIBITING DISCLOSURE OF
22 TAXPAYER INFORMATION INCLUDING SECTION 28 (1) (F) .

23 (8) NOT LATER THAN FEBRUARY 1 OF EACH YEAR, THE DEPARTMENT
24 SHALL REPORT TO EACH HOUSE OF THE LEGISLATURE ON ALL OF THE
25 FOLLOWING:

26 (A) THE ANNUAL COST OF ADMINISTERING THIS SECTION.

27 (B) THE ESTIMATED ADDITIONAL REVENUE RECEIVED BY THE

1 **DEPARTMENT ATTRIBUTABLE TO THIS SECTION.**

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

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

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

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

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

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

1 unpaid accounts or amounts due to any department, institution, or
2 agency of state government. This subdivision does not prevent a
3 compromise of interest or penalties, or both.

4 (f) Except as otherwise provided in this subdivision, an
5 employee, authorized representative, or former employee or
6 authorized representative of the department or anyone connected
7 with the department shall not divulge any facts or information
8 obtained in connection with the administration of a tax or
9 information or parameters that would enable a person to ascertain
10 the 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
13 information contained in a return unless it is appropriate for the
14 proper administration of a tax law administered under this act. A
15 person may disclose information described in this subdivision if
16 the disclosure is **PERMITTED UNDER SECTION 3B OR IS** required for the
17 proper administration of a tax law administered under this act or
18 the general property tax act, 1893 PA 206, MCL 211.1 to 211.157,
19 pursuant to a judicial order sought by an agency charged with the
20 duty of enforcing or investigating support obligations pursuant to
21 an order of a court in a domestic relations matter as that term is
22 defined in section 2 of the friend of the court act, 1982 PA 294,
23 MCL 552.502, or pursuant to a judicial order sought by an agency of
24 the federal, state, or local government charged with the
25 responsibility for the administration or enforcement of criminal
26 law for purposes of investigating or prosecuting criminal matters
27 or for federal or state grand jury proceedings or a judicial order

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

25 (2) A person who violates subsection (1)(e), (1)(f), or (4) 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 offense
2 is committed by an employee of this state, the person shall be
3 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) A person who receives information under subsection (1)(f)
10 for the proper administration of the general property tax act, 1893
11 PA 206, MCL 211.1 to 211.157, shall not willfully disclose that
12 information for any purpose other than the administration of the
13 general property tax act, 1893 PA 206, MCL 211.1 to 211.157. A
14 person who violates this subsection is subject to the penalties
15 provided in subsection (2).

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