

1 Introduced by Committee on Ways and Means

2 Date:

3 Subject: Taxation; various

4 Statement of purpose of bill as introduced: This bill proposes to make a
5 number of miscellaneous tax changes.

6 An act relating to miscellaneous tax changes

7 It is hereby enacted by the General Assembly of the State of Vermont:

8 * * * Tax on Spirits and Fortified Wines; Rulemaking Authority * * *

9 Sec. 1. 7 V.S.A. § 423(a) is amended to read:

10 (a) ~~The Commissioner of Taxes and the~~ Liquor Control Board shall adopt
11 such rules as ~~they deem~~ it deems necessary for the proper administration and
12 collection of the tax imposed under section 422 of this title.

13 * * * Property Valuation and Review * * *

14 Sec. 2. 24 V.S.A. § 1168 is amended to read:

15 § 1168. RETURN OF NAMES OF LISTERS TO DIRECTOR OF THE
16 DIVISION OF PROPERTY VALUATION AND REVIEW

17 After each annual meeting, a town clerk shall report forthwith ~~in writing~~
18 electronically to the Director of the Division of Property Valuation and Review
19 the name of each lister therein, his or her post office address, and the length of
20 his or her term of office. In like manner, ~~such~~ a town clerk shall notify the

1 Director of the Division of Property Valuation and Review of any lister
2 appointed to fill a vacancy.

3 * * * Games of Chance * * *

4 Sec. 3. 13 V.S.A. § 2143 is amended to read:

5 § 2143. NONPROFIT ORGANIZATIONS

6 (a) Notwithstanding the provisions of this chapter, a nonprofit
7 organization, as defined in ~~32 V.S.A. § 10201(5)~~ 31 V.S.A. § 1201(5), may
8 organize and execute, and an individual may participate in lotteries, raffles or
9 other games of chance for the purpose of raising funds to be used in charitable,
10 religious, educational, and civic undertakings or used by fraternal
11 organizations to provide direct support to charitable, religious, educational, or
12 civic undertakings with which they are affiliated. Except as provided in
13 subsection (d) of this section, gambling machines and other mechanical
14 devices described in section 2135 of this title shall not be utilized under
15 authority of this section.

16 * * *

17 (d) Casino events shall be limited as follows:

18 * * *

19 (2) A location that is owned by a nonprofit, as defined in ~~32 V.S.A.~~
20 ~~§ 10201(5)~~ 31 V.S.A. § 1201(5), may be the site of no more than three casino

1 events in any calendar quarter and no more than 12 casino events in any
2 calendar year as long as there are at least 15 days between each event.

3 (3) A nonprofit organization, as defined in ~~32 V.S.A. § 10201(5)~~
4 31 V.S.A. § 1201(5), may organize and execute no more than:

5 (A) one casino event in any calendar quarter; or

6 (B) three casino events in any calendar year, as long as there are at
7 least 15 days between each event.

8 * * *

9 (e) Games of chance shall be limited as follows:

10 * * *

11 (6) A nonprofit organization shall not organize and execute games of
12 chance on more than two days in any calendar week, nor shall games of chance
13 be organized and executed at any location on more than two days in any
14 calendar week, except that:

15 (A) Casino events may be conducted only as permitted under
16 subsection (d) of this section.

17 (B) Break-open tickets may be purchased and distributed only as
18 provided in ~~32 V.S.A. chapter 239~~ 31 V.S.A. chapter 23.

19 (C) A nonprofit organization may organize and execute games of
20 chance on three consecutive days not more than twice in any calendar year as
21 long as there are at least 90 days between each event.

1 (D) Agricultural fairs qualified to receive a State stipend pursuant
2 to 31 V.S.A. § 617 may organize and execute games of chance for not more
3 than 12 consecutive days during the fair once each calendar year.

4 (E) A nonprofit organization may organize and execute games of
5 chance at a location used by another nonprofit organization which results in the
6 location being used on more than two days a week if all the nonprofit
7 organizations using the location were in existence as of January 1, 1994, and
8 are not affiliated with each other or under common control.

9 * * *

10 Sec. 4. 31 V.S.A. chapter 23 is added to read:

11 CHAPTER 23. GAMES OF CHANCE

12 § 1201. DEFINITIONS

13 As used in this chapter:

14 (1) “Break-open ticket” means a lottery utilizing a card or ticket of the
15 so-called pickle card, jar ticket, or break-open variety commonly bearing the
16 name “Lucky 7,” “Nevada Club,” “Victory Bar,” “Texas Poker,” “Triple
17 Bingo,” or any other name.

18 (2) “Commissioner” means the Commissioner of Liquor Control.

19 (3)(A) “Distributor” means a person that purchases break-open tickets
20 from a manufacturer and sells or distributes break-open tickets at wholesale in
21 Vermont. “Distributor” shall include any officer, employee, or agent of a

1 corporation or dissolved corporation that has a duty to act for the corporation
2 in complying with the requirements of this chapter.

3 (B) “Distributor” shall not include a person who distributes only
4 jar tickets that are used only for merchandise prizes.

5 (4) “Manufacturer” means a person that designs, assembles, fabricates,
6 produces, constructs, or who otherwise prepares a break-open ticket for sale to
7 a distributor.

8 (5) “Nonprofit organization” means a nonprofit corporation that is
9 qualified for tax exempt status under I.R.C. § 501(c), as amended, and that has
10 engaged, in good faith, in charitable, religious, educational, or civic activities
11 in Vermont on a regular basis during the preceding year. “Nonprofit
12 organization” also includes churches, schools, fire departments, municipalities,
13 fraternal organizations, and organizations that operate agricultural fairs or field
14 days, and that have engaged, in good faith, in charitable, religious, educational,
15 or civic activities in Vermont on a regular basis during the preceding year.

16 § 1202. LICENSE REQUIRED

17 (a) Manufacture. Break-open tickets sold in Vermont shall be
18 manufactured only by a person licensed by the Commissioner. A licensed
19 manufacturer shall sell break-open tickets only to distributors licensed under
20 this chapter. A distributor licensed under this chapter shall purchase
21 break-open tickets only from a manufacturer licensed under this chapter.

1 (b) Distribution. A distributor who sells or distributes break-open tickets
2 for resale in Vermont shall be licensed by the Commissioner, and shall also be:

3 (1) a natural person who is a resident of Vermont;

4 (2) a partnership in which the majority of partners are residents of
5 Vermont;

6 (3) a corporation incorporated under the laws of Vermont, provided
7 that a majority of the ownership interest is held by residents of Vermont; or

8 (4) a person who is not a resident of Vermont and whose state of
9 residence allows residents or corporations of Vermont to distribute break-open
10 tickets in that state under similar terms and conditions as provided under this
11 chapter.

12 § 1203. DISTRIBUTION; RETAIL PURCHASE AND SALE

13 (a) Only nonprofit organizations may purchase break-open tickets from a
14 distributor licensed under this chapter.

15 (b) A nonprofit organization may purchase break-open tickets only from a
16 distributor licensed under this chapter.

17 (c) No person, other than a licensed distributor, shall distribute a box of
18 break-open tickets. No person shall distribute a box of break-open tickets
19 unless the box bears indicia as required by the Commissioner. No person shall
20 distribute or sell a break-open ticket at retail unless the ticket bears a unique
21 serial number.

1 (d) A distributor licensed under this chapter may sell break-open tickets
2 only to nonprofit organizations as defined in subdivision 1201(5) of this
3 chapter, except that a person other than a licensed distributor may sell such
4 tickets to a licensed distributor upon written approval of the Commissioner.

5 (e) Only nonprofit organizations may sell break-open tickets at retail.

6 (f) Break-open tickets shall not be sold at premises licensed to sell
7 alcoholic beverages except at clubs as defined in 7 V.S.A. § 2(7). However, a
8 nonprofit organization may sell break-open tickets at premises licensed to sell
9 alcoholic beverages if, notwithstanding 13 V.S.A. § 2143(e) of this chapter, all
10 proceeds from the sale of break-open tickets are used by the nonprofit
11 organization exclusively for charitable, religious, educational, and civic
12 undertakings, with only the following costs deducted from the proceeds:

13 (1) actual cost of the break-open tickets;

14 (2) the prizes awarded;

15 (3) reasonable legal fees necessary to organize the nonprofit
16 organization and to ensure compliance with all legal requirements; and

17 (4) reasonable accounting fees necessary to account for the proceeds
18 from the sale of break-open tickets.

19 (g) The provisions of this chapter regarding sales and purchases of
20 break-open tickets also apply to transfers of break-open tickets for no charge.

1 § 1204. LICENSE REQUIREMENTS; FEES

2 (a) Upon application and payment of the fee, the Commissioner may issue
3 the following licenses to qualified applicants:

4 (1) Manufacturer annual license =sr \$3,000.00 /m

5 (2) Distributor annual license =sr% 2,000.00 /m

6 (b) A license shall not be granted to an individual who has been convicted
7 of a felony within five years of the license application nor to an entity in which
8 any partner, officer, or director has been convicted of a felony within five years
9 of the application.

10 (c) Licenses issued under this section may be renewed annually on
11 October 1, upon reapplication and payment of the licensing fee.

12 (d) All fees collected pursuant to this section shall be deposited into the
13 General Fund.

14 § 1205. RECORDS; REPORT

15 (a) Each distributor and manufacturer licensed under this chapter shall
16 maintain records and books relating to the distribution and sale of break-open
17 tickets and to any other expenditure required by the Commissioner. A licensee
18 shall make its records and books available to the Commissioner for auditing.

19 (b) Each licensed distributor shall file with the Commissioner on the same
20 schedule as the distributor files sales tax returns the following information for
21 the preceding reporting period:

1 (1) The names of organizations to which boxes of break-open tickets
2 were sold.

3 (2) The number of boxes of break-open tickets sold to each
4 organization.

5 (3) The ticket denomination and serial numbers of tickets for each box.

6 (c) Records and reports filed under this section shall be designated
7 confidential unless, under State or federal law or regulation, the record or
8 information may be disclosed to specifically designated persons.

9 (d) Notwithstanding subsection (c) of this section, the Commissioner of
10 Liquor Control shall provide the records and reports filed under this section to
11 the Attorney General, upon request.

12 § 1206. ENFORCEMENT

13 (a) Any person who intentionally violates section 1203 of this chapter
14 shall be fined not more than \$500.00.

15 (b) Any person who intentionally violates section 1202, 1204, or 1205 of
16 this title shall be fined not more than \$10,000.00 for the first offense and fined
17 not more than \$20,000.00 or imprisoned not more than one year, or both, for
18 each subsequent offense.

19 (c) In addition to the criminal penalties provided under subsections (a) and
20 (b) of this section, any person who violates a provision of this chapter shall be
21 subject to one or more of the following penalties:

1 (1) Revocation or suspension by the Commissioner of a license granted
2 pursuant to this chapter.

3 (2) Confiscation of break-open tickets or confiscation of the revenues
4 derived from the sale of those tickets, or both.

5 § 1207. APPEALS

6 Any licensee aggrieved by an action taken under subsection 1206(c) of this
7 chapter and any person aggrieved by the Commissioner's refusal to issue or
8 renew a license under this chapter may appeal in writing to the Commissioner
9 for review of such action. The Commissioner shall thereafter grant a hearing
10 subject to the provisions of 3 V.S.A. chapter 25 upon the matter and notify the
11 aggrieved person in writing of his or her determination. The Commissioner's
12 determination may be appealed within 30 days to the Washington Superior
13 Court or the Superior Court of the county in which the taxpayer resides or has
14 a place of business.

15 § 1208. RULEMAKING

16 The Department of Liquor Control may regulate the licensing and reporting
17 requirements of manufacturers and distributors of break-open tickets under this
18 chapter. The Commissioner of Liquor Control may adopt rules for licensure
19 and indicia for boxes of break-open tickets, for record keeping relating to the
20 distribution and sale of break-open tickets, and the remittance of net proceeds
21 from sales of break-open tickets to the intended eligible charitable recipients.

1 The rules shall permit no proceeds to be retained by the operators of for-profit
2 bars, except for:
3 (1) the actual cost of the break-open tickets;
4 (2) the prizes awarded; and
5 (3) any sales tax due on the sale of break-open tickets under 32 V.S.A.
6 chapter 233.

7 * * * Information Sharing * * *

8 Sec. 5. 32 V.S.A. § 3102 is amended to read:

9 § 3102. CONFIDENTIALITY OF TAX RECORDS

10 (a) No present or former officer, employee, or agent of the Department of
11 Taxes shall disclose any return or return information to any person who is not
12 an officer, employee, or agent of the Department of Taxes except in
13 accordance with the provisions of this section. A person who violates this
14 section shall be fined not more than \$1,000.00 or imprisoned for not more than
15 one year, or both; and if the offender is an officer or employee of this State, he
16 or she shall, in addition, be dismissed from office and be incapable of holding
17 any public office for a period of five years thereafter.

18 * * *

19 (e) The Commissioner may, in his or her discretion and subject to such
20 conditions and requirements as he or she may provide, including any

1 confidentiality requirements of the Internal Revenue Service, disclose a return
2 or return information:

3 * * *

4 (17) To the Department of Financial Regulation, if such return or
5 return information relates to the tax on premiums of captive insurance
6 companies contained in 8 V.S.A. chapter 141, to the tax on surplus lines under
7 8 V.S.A. § 5035, to the tax on the direct placement of insurance under 8 V.S.A.
8 § 5036, or to the tax on insurance premiums under section 8551 of this title.

9 (18) To the Agency of Natural Resources, if such return or return
10 information relates to the tax on hazardous waste under chapter 237 of this
11 title, or to the franchise tax on waste facilities under subchapter 13 of chapter
12 151 of this title.

13 (19) To the Vermont Student Assistance Corporation if such return or
14 return information is necessary to verify eligibility for the matching allocation
15 required by 16 V.S.A. § 2880d(c).

16 * * *

1 payments, deficiencies or over-assessments; and any other data, from any
2 source, furnished to or prepared or collected by the Department of Taxes with
3 respect to any person.

4 (4) “Tax administration” means the verification of a tax return or claim
5 for credit, rebate or refund; the investigation, assessment, determination,
6 litigation or collection of a tax liability of any person; the investigation or
7 prosecution of a tax-related crime; or the enforcement of a tax statute.

8 (5) “Commissioner” means the Commissioner of Taxes appointed
9 under section 3101 of this title or any officer, employee or agent of the
10 Department of Taxes authorized by the Commissioner (directly or indirectly by
11 one or more redelegations of authority) to perform any function of the
12 Commissioner.

13 (6) “State” means any sovereign body politic, including the United
14 States, any state or territory thereof, and any foreign country or state or
15 province thereof.

16 (7) “Authorized representative” means any person who would be
17 considered a designee of the taxpayer under 26 U.S.C. § 6103(c). The
18 signature of a notary public shall not be required for a person to be considered
19 an “authorized representative.”

1 * * * Tax Returns; Commissioner of Taxes * * *

2 Sec. 9. 32 V.S.A. § 5914(a) is amended to read:

3 (a) An S corporation which engages in activities in Vermont which
4 would subject a C corporation to the requirement to file a return under section
5 5862 of this title shall file with the Commissioner an annual return, in the form
6 prescribed by the Commissioner, on or before the due date prescribed for the
7 filing of ~~C corporation returns under section 5862~~ S corporation returns under
8 subsection 6072(b) of the Internal Revenue Code. The return shall set forth the
9 name, address, and Social Security or federal identification number of each
10 shareholder; the income attributable to Vermont and income not attributable to
11 Vermont with respect to each shareholder as determined under this subchapter;
12 and such other information as the Commissioner may by regulation prescribe.
13 The S corporation shall, on or before the day on which such return is filed,
14 furnish to each person who was a shareholder during the year a copy of such
15 information shown on the return as the Commissioner may by regulation
16 prescribe.

17 Sec. 10. 32 V.S.A. § 9243(a) is amended to read:

18 (a) Where the meals and rooms tax liability under this chapter for the
19 immediately preceding full calendar year has been (or would have been in
20 cases when the business was not operating for the entire year) \$500.00 or less,
21 the gross receipts taxes imposed by this chapter shall be due and payable in

1 quarterly installments on or before the 25th day of the calendar month
2 succeeding the quarter ending the last day of March, June, September, and
3 December of each year. In all other cases, the gross receipts tax imposed by
4 this chapter shall be due and payable monthly on or before the 25th (23rd of
5 February) day of the month following the month for which the tax is due. The
6 Commissioner may authorize payment of the tax due by electronic funds
7 transfer. The Commissioner may require payment by electronic funds transfer
8 from any taxpayer who is required by federal tax law to pay any federal tax in
9 that manner, or from any taxpayer who has submitted to the Department of
10 Taxes two or more protested or otherwise uncollectible checks with regard to
11 any State tax payment in the prior two years. Each operator shall make out and
12 sign under the pains and penalties of perjury a return for each quarter or month.
13 The return shall be filed with the Commissioner on a form prescribed by the
14 Commissioner. The Commissioner shall distribute return forms to the
15 operators, upon request, but no operator shall be excused from liability for
16 failure to file a return or pay the tax because he or she has failed to receive a
17 form. A remittance for the amount of taxes shall accompany each quarterly or
18 monthly return. Returns shall be made on forms provided by the
19 Commissioner. Payment of taxes by electronic funds transfer does not affect
20 the requirement to file returns.

1 Sec. 11. 32 V.S.A. § 9606(e) is amended to read:

2 (e) The Commissioner of Taxes is authorized to disclose to any person any
3 information appearing on a property transfer tax return, including statistical
4 information derived therefrom, and such information derived from research
5 into information appearing on property transfer tax returns as is necessary to
6 determine if the property being transferred is subject to 10 V.S.A. chapter 151,
7 except the Commissioner shall not disclose the Social Security number, federal
8 identification number, e-mail address, or telephone number of any person
9 pursuant to this subsection.

10 * * * Definitions; Homestead and Household Income * * *

11 Sec. 12. 32 V.S.A. § 5401(7) is amended to read:

12 (7) “Homestead”:

13 (A) “Homestead” means the principal dwelling and parcel of land
14 surrounding the dwelling, owned and occupied by a resident individual as the
15 individual's domicile or owned and fully leased on April 1, provided the
16 property is not leased for more than 182 days out of the calendar year, or for
17 purposes of the renter property tax adjustment under subsection 6066(b) of this
18 title, rented and occupied by a resident individual as the individual's domicile.

19 * * *

20 (E)(i) A homestead also includes a dwelling on the homestead parcel
21 owned by a farmer as defined under section 3752 of this title, and occupied as

1 the permanent residence by a parent, sibling, child, grandchild of the farmer, or
2 shareholder, partner, or member of the farmer-owner, provided that the
3 shareholder, partner, or member owns more than 50 percent of the
4 farmer-owner, including attribution of stock ownership of a parent, sibling,
5 child, or grandchild.

6 (ii) A homestead further includes the principal dwelling of a
7 widower or widow when the dwelling is owned by the estate of the person's
8 deceased spouse and it appears reasonably likely that the dwelling will pass to
9 the widower or widow by law or valid will when the estate is settled.

10 * * *

11 Sec. 13. 32 V.S.A. § 6061(4) is amended to read:

12 (4) “Household income” means modified adjusted gross income, but not
13 less than zero, received in a calendar year by:

14 (A) all persons of a household while members of that household; and

15 (B) the spouse of the claimant who is not a member of that household
16 and who is not legally separated from the claimant, unless the spouse is at least
17 62 years of age and has moved to a nursing home or other care facility with no
18 reasonable prospect of returning to the homestead; but shall not include

19 (C) the spouse of a claimant when the spouse is subject to a
20 protection order, as defined in 15 V.S.A. § 1101(5), as long as the order is in
21 effect at the time household income is reported to the Department of Taxes.

1 Sec. 15. 32 V.S.A. § 5403 is added to read:

2 § 5403. ASSESSMENT DISTRICTS

3 (a) A municipality may vote at any regular or special meeting to merge
4 with one or more other municipalities in the same unified union school district
5 to create or join an assessment district for the purpose of standardized property
6 valuation.

7 (b) All municipalities merged into an assessment district shall agree to
8 implement standardized assessment procedures approved by the
9 Commissioner. The Commissioner shall provide written guidance to
10 municipalities relating to how they may receive approval under this subsection.

11 (c) A vote to merge with an assessment district shall be binding on a
12 municipality for five years. After five years, a municipality may vote at any
13 regular or special meeting to leave the assessment district, unless the
14 assessment district has consolidated all administrative functions pursuant to
15 subsection (f) of this section.

16 (d) All municipalities within an assessment district shall be treated as a
17 single municipality for purposes of the equalization process established by
18 section 5405 of this chapter.

19 (e) Municipalities within an assessment district shall maintain independent
20 grand lists for municipal taxation, as well as independent processes for
21 grievances, property valuation appeals, abatements, grand list filing, use value

1 appraisal parcel management, reappraisal, and financial interaction with the
2 Agency of Education, unless the Commissioner, in writing, authorizes the
3 municipalities of an assessment district to consolidate all property valuation
4 administrative functions pursuant to subsection (f) of this section.

5 (f) Fully consolidated assessment districts.

6 (1) An assessment district may request that the Commissioner approve
7 the consolidation of all administrative functions relating to property valuation,
8 including shared property valuation staff, facilities, and the filing of a single
9 grand list. All municipalities participating in the assessment district must vote
10 to consolidate all administrative property valuation functions with the
11 assessment district at a regular or special meeting before a request to the
12 Commissioner is made.

13 (2) The Commissioner shall consider the impact on property tax
14 administration, the financial impacts on Vermont municipalities and the
15 Education Fund, and the impact on taxpayers when determining whether to
16 authorize municipalities to jointly administer property taxation functions.

17 (3) A consolidation under this subsection shall be permanently binding
18 on the participating municipalities.

19 (4) After approval by the Commissioner, the assessment district shall
20 create a consolidated board of listers, consolidated board of civil authority, and

1 a consolidated board of abatement. The consolidated boards shall be held to
2 the same requirements and procedures as their analogous municipal boards.

3 (5) All boards created pursuant to this subsection shall have at least one
4 member from each participating municipality.

5 (6) The consolidated board of listers of a consolidated assessment
6 district shall be responsible for filing the assessment district's grand list with
7 the State. Each municipality within a fully consolidated assessment district
8 shall be responsible for recording the assessment district's grand list in that
9 municipality.

10 Sec. 16. 32 V.S.A. § 5405 is amended to read:

11 § 5405. DETERMINATION OF EQUALIZED EDUCATION PROPERTY

12 TAX GRAND LIST AND COEFFICIENT OF DISPERSION

13 * * *

14 (g) The Commissioner shall provide to municipalities for the front of
15 property tax bills the district homestead property tax rate before equalization,
16 the nonresidential tax rate before equalization, and the calculation process that
17 creates the equalized homestead and nonresidential tax rates. The
18 Commissioner shall further provide to municipalities for the back of property
19 tax bills an explanation of the common level of appraisal, including its origin
20 and purpose.

