



# Senate

General Assembly

**File No. 843**

*January Session, 2009*

Substitute Senate Bill No. 933

*Senate, April 30, 2009*

The Committee on Finance, Revenue and Bonding reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## ***AN ACT CONCERNING CHANGES TO VARIOUS TAX STATUTES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (1) of subsection (f) of section 12-7b of the  
2 general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective October 1, 2009*):

4 (f) (1) The Office of Fiscal Analysis shall not make known in any  
5 manner any information obtained from any such report or inventory,  
6 or any information obtained pursuant to subdivision (2) of this  
7 subsection which would allow the identification of any taxpayer or of  
8 the amount or source of income, profits, losses, expenditures or any  
9 particulars thereof set forth or disclosed in any return, statement or  
10 report required to be filed with or submitted to the commissioner  
11 which is discernible from such report or inventory, or from such  
12 information obtained pursuant to subdivision [(d)] (2) of this  
13 subsection, except as provided in this subsection. The Office of Fiscal  
14 Analysis may disclose such information to other state officers and

15 employees when required in the course of duty. No such officer or  
16 employee shall make known any such information to any other person  
17 except as provided in this subsection. Any person who violates any  
18 provision of this subsection shall be fined not more than one thousand  
19 dollars or imprisoned not more than one year or both.

20 Sec. 2. Section 12-317 of the general statutes is repealed and the  
21 following is substituted in lieu thereof (*Effective July 1, 2009*):

22 Any person having in [his] such person's possession any cigarettes  
23 with respect to the storage or use of which a tax is imposed herein  
24 shall, within twenty-four hours after coming into possession of such  
25 cigarettes, file a return with the Commissioner of Revenue Services in  
26 such form as [he] said commissioner may prescribe. The return shall be  
27 accompanied by a payment of the amount of the tax shown to be due  
28 thereon. If any such person fails to file the return as required by this  
29 section, said commissioner shall make such return at any time  
30 thereafter, according to the best information obtainable, in accordance  
31 with section 12-309, except that the penalty shall be equal to ten per  
32 cent of such tax due and unpaid. Such tax shall bear interest at the rate  
33 of one per cent per month or fraction thereof, from the due date of  
34 such tax until the date of payment.

35 Sec. 3. Section 12-326a of the general statutes is amended by adding  
36 subsection (c) as follows (*Effective October 1, 2009*):

37 (NEW) (c) Notwithstanding the provisions of section 12-15 or any  
38 other section of the general statutes, for purposes of this part the  
39 commissioner may make public the identity of those persons who are  
40 stamping agents, subjobbers or chain stores.

41 Sec. 4. Subsection (b) of section 12-460a of the general statutes is  
42 repealed and the following is substituted in lieu thereof (*Effective July*  
43 *1, 2009*):

44 (b) With respect to fiscal years ending on or after June 30, [2004]  
45 2010, the [Commissioner of Revenue Services] Comptroller shall

46 deposit into the Conservation Fund established under section 22a-27h  
47 three million dollars of the amount of the funds received by the state  
48 from the tax imposed under this chapter attributable to sales of fuel  
49 from distributors to any boat yard, public or private marina or other  
50 entity renting or leasing slips, dry storage, mooring or other space for  
51 marine vessels provided (1) two hundred fifty thousand dollars shall  
52 be credited to the boating account, and (2) two million dollars shall be  
53 credited to the fisheries account of which not less than seventy-five  
54 thousand dollars shall be allocated to The University of Connecticut  
55 for the Long Island Sound councils.

56 Sec. 5. Section 12-484 of the general statutes is repealed and the  
57 following is substituted in lieu thereof (*Effective January 1, 2010*):

58 (a) Except as otherwise provided in this section, every motor carrier  
59 subject to the tax imposed by this chapter shall, on or before the last  
60 day of January, April, July and October, annually, [or on or before the  
61 last day of the month following such reporting period, other than a  
62 quarterly period as may be established under regulations promulgated  
63 by the Commissioner of Revenue Services,] make to the commissioner  
64 such reports of its operations during the quarter [or such other period,  
65 as the case may be,] ending the last day of the preceding month as the  
66 commissioner may require and such other reports from time to time as  
67 the commissioner may deem necessary.

68 (b) The commissioner shall adopt in accordance with chapter 54 and  
69 enforce regulations relating to the administration and enforcement of  
70 this chapter.

71 (c) The commissioner [by regulation may] shall exempt from the  
72 [aforesaid] reporting requirements of subsection (a) of this section [, as  
73 a class, (1)] those motor carriers operating solely within this state and  
74 [(2) those motor carriers] purchasing motor fuel solely within this  
75 state. [, and require in each such instance an annual report, if in his  
76 discretion the enforcement of this chapter would not be adversely  
77 affected by such regulation.]

78 Sec. 6. Subsection (c) of section 12-487 of the general statutes is  
79 repealed and the following is substituted in lieu thereof (*Effective*  
80 *January 1, 2010*):

81 (c) [No] (1) Except as otherwise provided in subdivisions (2) and (3)  
82 of this subsection, no person shall operate or cause to be operated any  
83 [such vehicle] qualified motor vehicle, as defined in section 12-478, in  
84 this state unless such vehicle bears the identification markers required  
85 by this section. [, provided the commissioner by letter or telegram may  
86 authorize the operation, for a period not to exceed ten days as to any  
87 one motor carrier, of a vehicle or vehicles without such identification  
88 marker when the enforcement of this section would cause undue delay  
89 and hardship in the operation of such vehicle or vehicles and when the  
90 enforcement of this chapter will not be adversely affected.] Any person  
91 operating or causing to be operated in this state any qualified motor  
92 vehicle [, as defined in section 12-478,] to which the identification  
93 markers required by this section or any regulations adopted in  
94 accordance with the provisions of chapter 54 are not properly affixed  
95 shall have committed an infraction, the fine for which shall be ninety  
96 dollars. Any provision of the general statutes to the contrary  
97 notwithstanding, any person who is alleged to have committed such  
98 an infraction shall follow the procedures set forth in section 51-164n.

99 (2) The commissioner may authorize the operation without the  
100 identification markers required by this section of a qualified motor  
101 vehicle in this state by a motor carrier where (A) the motor carrier has  
102 filed with the commissioner or an authorized third party an  
103 application for a trip permit, on a form prescribed by the commissioner  
104 or authorized third party, and has paid the trip permit fee; (B) the  
105 commissioner has determined that the enforcement of this chapter will  
106 not be adversely affected; and (C) the commissioner has determined  
107 that the enforcement of this section would cause undue delay and  
108 hardship in the operation of such vehicle. Each trip permit, upon  
109 issuance, shall be valid for a period of seventy-two hours from the time  
110 of its issuance, or from the time specified by the trip permittee,  
111 whichever is later. The issuance of a trip permit to a motor carrier for a

112 qualified motor vehicle shall exempt the motor carrier from filing the  
113 quarterly report otherwise required under section 12-484, as amended  
114 by this act, and from paying the tax otherwise required under section  
115 12-483 on the operation of such vehicle in this state during the time  
116 that the permit is in effect. A motor carrier to whom a trip permit is  
117 issued shall, during the time that the permit is in effect, be required to  
118 have the permit present at all times in the vehicle for which it was  
119 issued, and to present the permit, on demand, for inspection by  
120 employees or other agents of the Department of Revenue Services, or  
121 by law enforcement officers. A trip permit shall not be transferable by  
122 a trip permittee. The trip permit fee shall be fifty dollars for each  
123 qualified motor vehicle. A motor carrier, in signing the application for  
124 a trip permit and in paying the trip permit fee, shall acknowledge and  
125 agree that the motor carrier is waiving and releasing any claim for  
126 refund that might otherwise be allowable if the amount of the trip  
127 permit fee were to exceed the tax that would otherwise be required to  
128 be paid under section 12-483 on the operation of such vehicle in this  
129 state during the time that the permit is in effect. The commissioner  
130 may authorize third parties to issue trip permits under this subsection.  
131 An authorized third party shall remit to the commissioner fifty dollars  
132 for each trip permit. Such third party shall issue a receipt to each trip  
133 permittee.

134 (3) The commissioner may authorize the operation without the  
135 identification markers required by this section of a qualified motor  
136 vehicle in this state by a motor carrier for emergency purposes if the  
137 commissioner determines that the enforcement of this section would  
138 cause undue delay and hardship in the operation of such vehicle.

139 Sec. 7. Subsection (a) of section 12-631 of the general statutes is  
140 repealed and the following is substituted in lieu thereof (*Effective July*  
141 *1, 2009, and applicable to income years commencing on or after January 1,*  
142 *2009*):

143 As used in this chapter, the following terms have the following  
144 meanings:

145 (a) "Business firm" means any business entity authorized to do  
146 business in the state and subject to the [corporation business] tax  
147 imposed under [chapter 208 or to the unincorporated business tax  
148 imposed under chapter 228, or any insurance company, hospital or  
149 medical services corporation subject to the insurance companies,  
150 hospital and medical services corporations tax imposed under chapter  
151 207, or any air carrier subject to the air carriers tax imposed under  
152 chapter 209, or any railroad company subject to the railroad companies  
153 tax imposed under chapter 210, or any express, telegraph, telephone,  
154 cable, car or community antenna television company subject to the  
155 express, telegraph, telephone, cable, car and community antenna  
156 television companies tax imposed under chapter 211, or any utility  
157 company subject to the utility companies tax imposed under chapter  
158 212, or any public service company subject to the public service  
159 companies tax imposed under chapter 212a] chapter 207, 208, 209, 210,  
160 211 or 212.

161 Sec. 8. Section 12-635a of the general statutes is repealed and the  
162 following is substituted in lieu thereof (*Effective July 1, 2009, and*  
163 *applicable to income years commencing on or after January 1, 2009*):

164 The Commissioner of Revenue Services shall grant a credit against  
165 any tax due under the provisions of chapter 207, 208, 209, 210, 211 or  
166 212 in an amount not to exceed [forty] sixty per cent of the total cash  
167 amount invested during the taxable year by the business firm in  
168 community-based alcoholism prevention or treatment programs  
169 operated or created pursuant to proposals approved pursuant to  
170 section 12-632.

171 Sec. 9. Subsection (g) of section 38a-91hh of the general statutes is  
172 repealed and the following is substituted in lieu thereof (*Effective from*  
173 *passage*):

174 (g) Nothing contained in this section shall prevent or be construed  
175 as prohibiting the commissioner from disclosing the content of an  
176 examination report, preliminary examination report or results, or any  
177 matter relating to such report to (1) the [Insurance Department]

178 insurance regulatory officials of this or any other state or country, (2)  
179 law enforcement officials of this or any other state, or (3) any agency of  
180 this or any other state, or the federal government at any time, [unless]  
181 provided such agency or office receiving the report or matters relating  
182 to such report agrees, in writing, that such documents shall be  
183 confidential.

184 Sec. 10. Section 38a-91nn of the general statutes is repealed and the  
185 following is substituted in lieu thereof (*Effective from passage and*  
186 *applicable to calendar years commencing on and after January 1, 2009*):

187 (a) Each captive insurance company shall pay to the Commissioner  
188 of Revenue Services, [in the month of February of each year] on or  
189 before the first day of March, annually, a tax at the rate of thirty-eight  
190 hundredths of one per cent on the first twenty million dollars and two  
191 hundred eighty-five thousandths of one per cent on the next twenty  
192 million dollars and nineteen hundredths of one per cent on the next  
193 twenty million dollars and seventy-two thousandths of one per cent on  
194 each dollar thereafter on the direct premiums collected or contracted  
195 for on policies or contracts of insurance written by the captive  
196 insurance company during the year ending December thirty-first next  
197 preceding, after deducting from the direct premiums subject to the tax  
198 the amounts paid to policyholders as return premiums which shall  
199 include dividends on unabsorbed premiums or premium deposits  
200 returned or credited to policyholders, except that no tax shall be due or  
201 payable as to considerations received for annuity contracts.

202 (b) The annual minimum aggregate tax to be paid by a captive  
203 insurance company calculated under [subsections (a) and (b)]  
204 subsection (a) of this section shall be seven thousand five hundred  
205 dollars, and the annual maximum aggregate tax shall be two hundred  
206 thousand dollars.

207 (c) [A captive insurance company failing to file returns as required  
208 in this section or failing to pay within the time required all taxes  
209 assessed by this section shall be subject to penalty under section 12-  
210 229] The provisions of sections 12-204, 12-204d, 12-204g and 12-205 to

211 12-208, inclusive, shall apply to the provisions of sections 38a-91aa to  
212 38a-91qq, inclusive, as amended by this act, in the same manner and  
213 with the same force and effect as if the language of said sections 12-  
214 204, 12-204d, 12-204g and 12-205 to 12-208, inclusive, had been  
215 incorporated in full into this section and had expressly referred to the  
216 tax due under sections 38a-91aa to 38a-91qq, inclusive, as amended by  
217 this act, except to the extent that any such language is inconsistent with  
218 a provision of said sections 38a-91aa to 38a-91qq, inclusive.

219 (d) Two or more captive insurance companies under common  
220 ownership and control shall be taxed as though they were a single  
221 captive insurance company.

222 (e) For the purposes of this section common ownership and control  
223 means:

224 (1) In the case of stock corporations, the direct or indirect ownership  
225 of eighty per cent or more of the outstanding voting stock of two or  
226 more corporations by the same shareholder or shareholders; and

227 (2) In the case of mutual or nonprofit corporations, the direct or  
228 indirect ownership of eighty per cent or more of the surplus and the  
229 voting power of two or more corporations by the same member or  
230 members.

231 (f) The tax provided for in this section shall constitute all taxes  
232 collectible under the laws of this state from any captive insurance  
233 company, and no other occupation tax or other taxes shall be levied or  
234 collected from any captive insurance company by the state or any  
235 county, city or municipality within this state, except taxes on real and  
236 personal property used in the production of income.

237 (g) The tax provided for in this section shall be calculated on an  
238 annual basis, notwithstanding policies or contracts of insurance or  
239 contracts of reinsurance issued on a multiyear basis. In the case of  
240 multiyear policies or contracts, the premium shall be prorated for  
241 purposes of determining the tax under this section.

242 Sec. 11. Sections 12-34d and 12-315a of the general statutes are  
 243 repealed. (*Effective July 1, 2009*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	12-7b(f)(1)
Sec. 2	<i>July 1, 2009</i>	12-317
Sec. 3	<i>October 1, 2009</i>	12-326a
Sec. 4	<i>July 1, 2009</i>	12-460a(b)
Sec. 5	<i>January 1, 2010</i>	12-484
Sec. 6	<i>January 1, 2010</i>	12-487(c)
Sec. 7	<i>July 1, 2009, and applicable to income years commencing on or after January 1, 2009</i>	12-631(a)
Sec. 8	<i>July 1, 2009, and applicable to income years commencing on or after January 1, 2009</i>	12-635a
Sec. 9	<i>from passage</i>	38a-91hh(g)
Sec. 10	<i>from passage and applicable to calendar years commencing on and after January 1, 2009</i>	38a-91nn
Sec. 11	<i>July 1, 2009</i>	Repealer section

**FIN** Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

### **OFA Fiscal Note**

#### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 10 \$</b>	<b>FY 11 \$</b>
Department of Revenue Services	GF - Revenue Gain	50,000	50,000

Note: GF=General Fund

**Municipal Impact:** None

#### **Explanation**

Section 6 of the bill is anticipated to result in a minimal revenue gain of approximately \$50,000 as a result of establishing a new \$50 trip permit for motor carriers that do not typically travel through Connecticut.

The bill also makes several technical and clarifying changes as well as several changes to the way that certain taxes are administered, which have no fiscal impact.

#### **The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future.

**OLR Bill Analysis****sSB 933*****AN ACT CONCERNING CHANGES TO VARIOUS TAX STATUTES.*****SUMMARY:**

This bill makes adjustments in how the Department of Revenue Services (DRS) administers various state tax laws. It:

1. extends cigarette tax assessment, interest, and penalty provisions to people who are not licensed dealers or distributors when they fail to pay excise tax on unstamped cigarettes in their possession;
2. allows DRS to publish the identities of cigarette dealers and distributors by category in order to enforce the cigarette minimum mark-up law;
3. shifts, from the DRS commissioner to the comptroller, responsibility for depositing motor fuel tax revenue in the Conservation Fund;
4. standardizes motor carrier road tax report filing deadlines and requires motor carriers to purchase trip permits to operate temporarily in the state without registering for the tax; and
5. allows the insurance commissioner to disclose the contents of captive insurance company examination reports to other state agencies, if the agencies agree to keep the information confidential, and extends to captive insurance companies the same insurance premium tax administrative requirements as apply to other insurance companies.

The bill also makes minor and technical changes and repeals

obsolete statutes.

EFFECTIVE DATE: Various, see below.

### **§ 1 - TECHNICAL**

The bill corrects a reference in the statutory confidentiality requirements applicable to tax return data obtained by the Office of Fiscal Analysis.

EFFECTIVE DATE: October 1, 2009

### **§ 2 - CIGARETTE TAX ON STORAGE OR USE OF UNSTAMPED CIGARETTES**

By law, anyone other than a licensed cigarette dealer or distributor who has unstamped cigarettes in his or her possession must file a return and pay cigarette tax within 24 hours after obtaining the unstamped cigarettes. This bill extends to violators the same tax deficiency assessment, interest, and penalty provisions as apply to cigarette dealers and distributors, except that, under this bill, a cigarette use tax violator is not subject to a \$50 minimum penalty.

EFFECTIVE DATE: July 1, 2009

### **§ 3 – CIGARETTE MINIMUM MARK-UP LAW ENFORCEMENT**

Connecticut prohibits cigarette distributors and dealers from selling below cost. Unless they file proof otherwise with the DRS commissioner, the law presumes that their cost includes a percentage mark-up (known as the “minimum mark-up”) that varies depending on the type of seller and transaction. For purposes of determining the minimum mark-up, distributors are divided into three categories: stamping agents, subjobbers, and chain stores.

This bill allows the DRS commissioner to publish the identities of these distributors (apparently, by category) in order to enforce the minimum mark-up law. By law, the DRS commissioner must already publish, on its website, a list of cigarette distributors and dealers for purposes of enforcing restrictions on shipping cigarettes to state

residents (CGS § 12-285c).

EFFECTIVE DATE: October 1, 2009

#### **§4 – CONSERVATION FUND DEPOSITS**

Starting with FY 10, the bill transfers, from the DRS commissioner to the comptroller, the responsibility for making deposits of motor fuel tax revenue into the Conservation Fund. By law, \$3 million of annual state revenue from motor fuel taxes on sales by boat yards, marinas, dry docks, and similar entities must be deposited in the fund.

EFFECTIVE DATE: July 1, 2009

#### **MOTOR CARRIER ROAD TAX**

##### **§ 5 – Tax Reports**

The bill eliminates the DRS commissioner's authority to adopt alternate motor carrier road tax report filing deadlines by regulation. It thus requires all carriers filing quarterly operating reports to file them annually on the last days of January, April, July, and October.

Under current law, the commissioner may exempt carriers that either (1) operate only in Connecticut or (2) buy all their fuel in the state from quarterly reporting and instead require them to file annual reports. The bill requires the commissioner to exempt motor carriers that both operate and buy all their fuel only in Connecticut from all reporting. It requires all other carriers to file quarterly reports and eliminates the annual reports

EFFECTIVE DATE: January 1, 2010

##### **§ 6 – Temporary & Emergency Operating Authority; Trip Permits**

By law, intrastate motor carriers and interstate motor carriers based in Connecticut must register with DRS for purposes of the motor carrier road tax and display state-issued identification markers whenever they operate in Connecticut.

Under current law, the DRS commissioner can, by letter or telegram,

authorize a carrier to operate here without the markers for up to 10 days if tax enforcement will not be adversely affected and enforcing the registration requirement would cause undue delay and hardship. The bill modifies this authority in two ways. It continues the commissioner's authority to allow a carrier to operate without markers if tax enforcement will not be adversely affected, but only in an emergency. It also allows the commissioner to permit emergency operation for an unlimited time, instead of only for 10 days.

For carriers seeking temporary operating authority in nonemergency situations, the bill authorizes the commissioner to issue a trip permit for each vehicle, good for 72 hours of operation without markers. The 72-hour period begins either from the time the permit is issued or a time the permittee specifies, whichever is later. A carrier operating under a trip permit is exempt from the requirement to file quarterly operating reports and from paying the motor carrier road tax.

Under the bill, the commissioner can issue the trip permits when:

1. the applicant files a permit application on a DRS form and pays a \$50 fee for each vehicle seeking a permit,
2. she determines issuance will not adversely affect motor carrier road tax enforcement, and
3. she finds that enforcement of the regular registration requirement will cause undue hardship and delay for the operating vehicle.

A person operating a motor vehicle under a trip permit must keep the permit in the vehicle at all times and show it for inspection to DRS employees or agents or law enforcement officers. Permits are not transferrable. By applying for the permit and paying the fee, the motor carrier agrees to waive any claim for a refund otherwise allowable if the permit fee exceeds the motor carrier road tax that would otherwise be paid for the vehicle operating in the state.

The bill allows the commissioner to authorize third parties to issue the trip permits. Authorized third parties must remit \$50 per permit to the DRS commissioner and issue a receipt to each permittee.

EFFECTIVE DATE: January 1, 2010

### **§§ 7 & 8 – NEIGHBORHOOD ASSISTANCE ACT TAX CREDITS**

The Neighborhood Assistance Act provides business tax credits to companies that invest in certain municipally approved community activities and programs.

The bill increases the credit for business investments in community-based alcoholism prevention or treatment programs from 40% to 60% of the investment, thus making it match the 60% credit generally applicable to most other Neighborhood Assistance Act activities. It also makes a technical change.

EFFECTIVE DATE: July 1, 2009 and applicable to income years starting on or after that date.

### **§§ 9 & 10 – CAPTIVE INSURANCE COMPANIES**

The bill allows the insurance commissioner to disclose the contents of an examination report on a captive insurance company to any state agency in Connecticut or elsewhere, if the agency receiving the information agrees to keep it confidential. Under current law, the commissioner's disclosure authority is limited to (1) insurance departments in other states or countries, (2) Connecticut or other states' law enforcement officials, and (3) federal agencies.

By law, captive insurance companies are subject to the insurance premium tax. This bill imposes the same tax assessment, collection, payment, and annual return requirements and procedures on captive insurers as other insurance companies. It also subjects them to the same DRS regulations as all insurance companies subject to the insurance premium tax. These laws and regulations apply unless they are inconsistent with the statutes governing captive insurance companies.

Finally, the bill requires captive insurance companies to pay taxes by March 1 annually, instead of during February each year and makes technical changes and corrections.

EFFECTIVE DATE: Upon passage. The tax procedures and filing requirements apply to calendar years starting on or after January 1, 2009.

## **§ 11 – OBSOLETE STATUTES REPEALED**

### ***State Tax Review Commission***

The bill eliminates the State Tax Review Commission. The commission was established in 1991 and has been inactive since 1994. Its original charge was to evaluate the state's tax system and make a report by December 15, 1992. In 1993, the legislature expanded its charge and required it to make reports every year by December 15. The commission filed reports in December 1992 and January 1994, but then fell into inactivity. The legislature repealed the statutory authorization for the commission in 1997, but the governor vetoed the bill on other grounds.

### ***Report on Cigarette Tax Enforcement***

The bill eliminates a requirement that the DRS commissioner report annually on the department's cigarette sales enforcement activities to the Public Health and Children's committees and the state agency the governor designates as responsible for reducing smoking by minors. The first report was due January 1, 1998. The Legislative Library has no record of any reports being submitted.

EFFECTIVE DATE: July 1, 2009

## **COMMITTEE ACTION**

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 55      Nay 0      (04/16/2009)