



House of Representatives

General Assembly

File No. 587

January Session, 2013

Substitute House Bill No. 6567

House of Representatives, April 22, 2013

The Committee on Finance, Revenue and Bonding reported through REP. WIDLITZ of the 98th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING DEPARTMENT OF REVENUE SERVICES PROCEDURES REGARDING PENALTY WAIVERS, PERSONNEL PROCEEDINGS, SALES TAX PERMITS AND LICENSE RENEWALS.

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

1 Section 1. Section 12-3a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2013*):

3 (a) There is created a Penalty Review Committee which shall consist
4 of the State Comptroller or an employee of the office of the State
5 Comptroller designated by said Comptroller, the Secretary of the
6 Office of Policy and Management or an employee of the Office of
7 Policy and Management designated by said secretary and the
8 Commissioner of Revenue Services or an employee of the Department
9 of Revenue Services designated by said commissioner. Said committee
10 shall meet monthly or as often as necessary to approve any waiver of
11 penalty in excess of one thousand dollars which the Commissioner of
12 Revenue Services [, or the Commissioner of Consumer Protection,] is

13 authorized to waive in accordance with this title, [which is in excess of
14 five hundred dollars] or which the Commissioner of Consumer
15 Protection is authorized to waive in accordance with chapter 226. A
16 majority vote of the committee shall be required for approval of such
17 waiver.

18 (b) An itemized statement of all waivers approved under this
19 section shall be available to the public for inspection by any person.

20 (c) The Penalty Review Committee created pursuant to subsection
21 (a) of this section shall adopt regulations in accordance with chapter 54
22 establishing guidelines for the waiver of any penalty in excess of [five
23 hundred] one thousand dollars.

24 (d) Any person aggrieved by the action of the Penalty Review
25 Committee may, within one month after notice of such action is
26 delivered or mailed to such person, appeal therefrom to the superior
27 court for the judicial district of New Britain, which shall be
28 accompanied by a citation to the members of said committee to appear
29 before said court. Such citation shall be signed by the same authority,
30 and such appeal shall be returnable at the same time and served and
31 returned in the same manner as is required in case of a summons in a
32 civil action. The authority issuing the citation shall take from the
33 appellant a bond or recognizance to the state of Connecticut with
34 surety to prosecute the appeal to effect and to comply with the orders
35 and decrees of the court in the premises. Such appeals shall be
36 preferred cases, to be heard, unless cause appears to the contrary, at
37 the first session, by the court or by a committee appointed by it. Said
38 court may grant such relief as may be equitable. If the appeal is
39 without probable cause, the court may tax double or triple costs, as the
40 case demands; and, upon all such appeals which may be denied, costs
41 may be taxed against the appellant at the discretion of the court, but no
42 costs shall be taxed against the state.

43 Sec. 2. Subsection (b) of section 12-15 of the general statutes is
44 repealed and the following is substituted in lieu thereof (*Effective from*
45 *passage*):

46 (b) The commissioner may disclose (1) returns or return information
47 to (A) an authorized representative of another state agency or office,
48 upon written request by the head of such agency or office, when
49 required in the course of duty or when there is reasonable cause to
50 believe that any state law is being violated, or (B) an authorized
51 representative of an agency or office of the United States, upon written
52 request by the head of such agency or office, when required in the
53 course of duty or when there is reasonable cause to believe that any
54 federal law is being violated, provided no such agency or office shall
55 disclose such returns or return information, other than in a judicial or
56 administrative proceeding to which such agency or office is a party
57 pertaining to the enforcement of state or federal law, as the case may
58 be, in a form which can be associated with, or otherwise identify,
59 directly or indirectly, a particular taxpayer except that the names and
60 addresses of jurors or potential jurors and the fact that the names were
61 derived from the list of taxpayers pursuant to chapter 884 may be
62 disclosed by the Judicial Branch; (2) returns or return information to
63 the Auditors of Public Accounts, when required in the course of duty
64 under chapter 23; (3) returns or return information to tax officers of
65 another state or of a Canadian province or of a political subdivision of
66 such other state or province or of the District of Columbia or to any
67 officer of the United States Treasury Department or the United States
68 Department of Health and Human Services, authorized for such
69 purpose in accordance with an agreement between this state and such
70 other state, province, political subdivision, the District of Columbia or
71 department, respectively, when required in the administration of taxes
72 imposed under the laws of such other state, province, political
73 subdivision, the District of Columbia or the United States, respectively,
74 and when a reciprocal arrangement exists; (4) returns or return
75 information in any action, case or proceeding in any court of
76 competent jurisdiction, when the commissioner or any other state
77 department or agency is a party, and when such information is directly
78 involved in such action, case or proceeding; (5) returns or return
79 information to a taxpayer or its authorized representative, upon
80 written request for a return filed by or return information on such

81 taxpayer; (6) returns or return information to a successor, receiver,
82 trustee, executor, administrator, assignee, guardian or guarantor of a
83 taxpayer, when such person establishes, to the satisfaction of the
84 commissioner, that such person has a material interest which will be
85 affected by information contained in such returns or return
86 information; (7) information to the assessor or an authorized
87 representative of the chief executive officer of a Connecticut
88 municipality, when the information disclosed is limited to (A) a list of
89 real or personal property that is or may be subject to property taxes in
90 such municipality, or (B) a list containing the name of each person who
91 is issued any license, permit or certificate which is required, under the
92 provisions of this title, to be conspicuously displayed and whose
93 address is in such municipality; (8) real estate conveyance tax return
94 information or controlling interest transfer tax return information to
95 the town clerk or an authorized representative of the chief executive
96 officer of a Connecticut municipality to which the information relates;
97 (9) estate tax returns and estate tax return information to the Probate
98 Court Administrator or to the court of probate for the district within
99 which a decedent resided at the date of the decedent's death, or within
100 which the commissioner contends that a decedent resided at the date
101 of the decedent's death or, if a decedent died a nonresident of this
102 state, in the court of probate for the district within which real estate or
103 tangible personal property of the decedent is situated, or within which
104 the commissioner contends that real estate or tangible personal
105 property of the decedent is situated; (10) returns or return information
106 to the (A) Secretary of the Office of Policy and Management for
107 purposes of subsection (b) of section 12-7a, and (B) Office of Fiscal
108 Analysis for purposes of, and subject to the provisions of, subdivision
109 (2) of subsection (f) of section 12-7b; (11) return information to the Jury
110 Administrator, when the information disclosed is limited to the names,
111 addresses, federal Social Security numbers and dates of birth, if
112 available, of residents of this state, as defined in subdivision (1) of
113 subsection (a) of section 12-701; (12) pursuant to regulations adopted
114 by the commissioner, returns or return information to any person to
115 the extent necessary in connection with the processing, storage,

116 transmission or reproduction of such returns or return information,
117 and the programming, maintenance, repair, testing or procurement of
118 equipment, or the providing of other services, for purposes of tax
119 administration; (13) without written request and unless the
120 commissioner determines that disclosure would identify a confidential
121 informant or seriously impair a civil or criminal tax investigation,
122 returns and return information which may constitute evidence of a
123 violation of any civil or criminal law of this state or the United States to
124 the extent necessary to apprise the head of such agency or office
125 charged with the responsibility of enforcing such law, in which event
126 the head of such agency or office may disclose such return information
127 to officers and employees of such agency or office to the extent
128 necessary to enforce such law; (14) names and addresses of operators,
129 as defined in section 12-407, to tourism districts, as defined in section
130 10-397; (15) names of each licensed dealer, as defined in section 12-285,
131 and the location of the premises covered by the dealer's license; (16) to
132 a tobacco product manufacturer that places funds into escrow
133 pursuant to the provisions of subsection (a) of section 4-28i, return
134 information of a distributor licensed under the provisions of chapter
135 214 or chapter 214a, provided the information disclosed is limited to
136 information relating to such manufacturer's sales to consumers within
137 this state, whether directly or through a distributor, dealer or similar
138 intermediary or intermediaries, of cigarettes, as defined in section 4-
139 28h, and further provided there is reasonable cause to believe that such
140 manufacturer is not in compliance with section 4-28i; (17) returns,
141 which shall not include a copy of the return filed with the
142 commissioner, or return information for purposes of section 12-217z;
143 [and] (18) returns or return information to the State Elections
144 Enforcement Commission, upon written request by said commission,
145 when necessary to investigate suspected violations of state election
146 laws; and (19) returns or return information for purposes of, and
147 subject to the conditions of, subsection (e) of section 5-240, as amended
148 by this act.

149 Sec. 3. Section 5-240 of the general statutes is amended by adding
150 subsection (e) as follows (*Effective from passage*):

151 (NEW) (e) (1) As provided in subsection (b) of section 12-15, as
152 amended by this act, the Commissioner of Revenue Services may,
153 subject to such terms and conditions as said commissioner may
154 prescribe, disclose return or return information, as defined in said
155 section 12-15, in connection with a personnel proceeding, including
156 any administrative or judicial proceedings related thereto, involving
157 an employee or former employee of the Department of Revenue
158 Services, if said commissioner determines that such information is
159 relevant and material to such proceeding. If such return or return
160 information is relevant and material to such proceeding, the
161 commissioner shall, upon request made by the employee or former
162 employee who is the subject of such proceeding, disclose such return
163 or return information to such employee or former employee, or the
164 collective bargaining agent for such employee or former employee,
165 regardless of whether the commissioner introduces or otherwise relies
166 upon such return or return information during the course of the
167 proceeding. Return and return information disclosed under this
168 subsection shall be used only for purposes of and to the extent
169 necessary in such proceeding and shall not be further disclosed by any
170 person involved in such proceeding.

171 (2) Any person who violates any provision of this subsection shall
172 be fined not more than one thousand dollars or imprisoned not more
173 than one year, or both.

174 Sec. 4. Subsection (h) of section 12-409 of the general statutes is
175 repealed and the following is substituted in lieu thereof (*Effective July*
176 *1, 2013*):

177 (h) (1) Any person who knowingly violates any provision of this
178 section shall be fined not more than five hundred dollars or
179 imprisoned not more than three months or both for each offense.

180 (2) Any person who fails to secure or renew a permit as provided in
181 this section shall be subject to a civil penalty of two hundred fifty
182 dollars for the first day such person engages in or transacts business
183 without a permit and one hundred dollars for each subsequent day

184 such person engages in or transacts business without such permit.
 185 Subject to the provisions of section 12-3a, as amended by this act, the
 186 commissioner may waive all or any part of the civil penalty provided
 187 in this subdivision if it is proven to the commissioner's satisfaction that
 188 the failure to secure or renew such permit was due to reasonable cause
 189 and was not intentional or due to neglect.

190 Sec. 5. (NEW) (*Effective July 1, 2013*) (a) For purposes of this section,
 191 "license" means (1) any license issued by the commissioner pursuant to
 192 the provisions of chapter 214 of the general statutes, (2) any license
 193 issued by the commissioner pursuant to the provisions of section 12-
 194 330b of the general statutes, or (3) a seller's permit issued by the
 195 commissioner pursuant to section 12-409 of the general statutes, as
 196 amended by this act.

197 (b) Prior to issuing or renewing the license of any person, the
 198 commissioner may determine whether such person owes taxes to this
 199 state, which taxes are finally due and payable and with respect to
 200 which any administrative or judicial remedies, or both, have been
 201 exhausted or have lapsed. If the commissioner determines that such
 202 person owes such taxes, the commissioner shall not issue a license to,
 203 or renew the license of, such person, until such person pays such taxes,
 204 or makes an arrangement satisfactory to the commissioner to pay such
 205 taxes.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2013</i>	12-3a
Sec. 2	<i>from passage</i>	12-15(b)
Sec. 3	<i>from passage</i>	5-240
Sec. 4	<i>July 1, 2013</i>	12-409(h)
Sec. 5	<i>July 1, 2013</i>	New 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:

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Penalty Review Committee	GF - Potential Savings	Minimal	Minimal
Department of Revenue Services	GF - Revenue Gain	Potential Minimal	Potential Minimal

Municipal Impact: None

Explanation

The bill may result in minimal savings by reducing the workload of the Penalty Review Committee as it gives the Commissioner of Revenue Services greater discretion in determining whether or not administrative penalties are imposed.

The bill may also result in a minimal revenue gain by establishing a civil penalty for operating a business without a seller's permit, and by allowing the commissioner to refuse to issue or renew a cigarette license, tobacco products license, or seller's permit to a person who owes taxes to the state.

Allowing the limited disclosure of tax return information during personnel proceedings related to employees of the Department of Revenue Services (DRS) has no fiscal impact to the state or municipalities.

The Out Years

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

OLR Bill Analysis**sHB 6567*****AN ACT CONCERNING DEPARTMENT OF REVENUE SERVICES PROCEDURES REGARDING PENALTY WAIVERS, PERSONNEL PROCEEDINGS, SALES TAX PERMITS AND LICENSE RENEWALS.*****SUMMARY:**

This bill:

1. allows the Department of Revenue Services (DRS) commissioner to disclose certain tax information in connection with personnel proceedings involving current or former DRS employees;
2. increases, from \$500 to \$1,000, the threshold for penalty waivers requiring Penalty Review Committee review and approval;
3. imposes, on anyone conducting business without a sales tax permit, a civil penalty of \$250 for the first day, and \$100 for each subsequent day; and
4. bars the DRS commissioner from issuing or renewing certain permits and licenses for anyone who he determines owes state taxes for which all administrative or judicial remedies have expired or been exhausted.

EFFECTIVE DATE: July 1, 2013, except the provision concerning the disclosure of certain tax information is effective upon passage.

§§ 2 & 3 — DISCLOSURE OF CERTAIN TAX INFORMATION IN PERSONNEL PROCEEDINGS

The bill allows the DRS commissioner to disclose tax returns and return information (see BACKGROUND) in connection with personnel proceedings, including any related administrative or judicial

proceedings, involving a current or former DRS employee if the commissioner determines that the information is relevant and material to the proceeding. The commissioner may prescribe terms and conditions for the disclosures, which can be used only for purposes of, and to the extent necessary in, the proceedings.

The bill also requires the commissioner to disclose the tax information to the employee who is the subject of the proceeding, or his or her collective bargaining agent, if the information is relevant and material to the proceeding and the employee requests it. The commissioner must release the information regardless of whether he introduces it or otherwise relies on it during the proceeding.

The bill prohibits anyone involved in the proceeding from further disclosing the information and subjects violators to a fine of up to \$1,000, up to one year in prison, or both. The same penalty already applies under existing law for other unauthorized disclosures of tax information (CGS § 12-15(g)).

§ 1 — TAX AND LOTTERY SALES AGENT PENALTY WAIVERS

By law, the Penalty Review Committee must review and approve (1) tax penalty waivers granted by the DRS commissioner and (2) lottery sales agent penalty waivers granted by the consumer protection commissioner, if they exceed a minimum threshold. The bill increases this minimum from \$500 to \$1,000.

The Penalty Review Committee consists of the comptroller, DRS commissioner, and Office of Policy and Management secretary or their designees, who must be employees of their respective agencies. The committee (1) must meet as often as needed, but at least monthly, and make an itemized statement of all approved waivers available for public inspection and (2) may approve a waiver only by majority vote.

§ 4 — PENALTY FOR FAILING TO GET OR RENEW A SALES TAX PERMIT

By law, those engaged in the business of selling in Connecticut must hold a DRS-issued sales tax permit for each place of business.

The bill imposes a civil penalty on anyone who fails to get or renew a sales tax permit of \$250 for the first day, and \$100 for each subsequent day, that the person conducts business without a permit. It allows the DRS commissioner to waive all or part of the penalty if he finds that the person's failure to get or renew the permit has a reasonable cause and is not intentional or due to neglect. Any waiver is subject to the existing tax penalty waiver requirements described above.

As under current law, the penalty for each knowing violation of the sales tax permit law is a fine of up to \$500, up to three months in prison, or both.

§ 5 — STATE TAX PAYMENT AS A CONDITION OF ISSUING A LICENSE

The bill bars the DRS commissioner from issuing or renewing a (1) cigarette dealer, distributor, or manufacturer license; (2) tobacco product distributor license; and (3) sales tax seller's permit for anyone who he determines owes state taxes for which all administrative or judicial remedies have expired or been exhausted. Under the bill, the applicant must pay what he or she owes or arrange to do so, to the commissioner's satisfaction, before the commissioner may issue or renew the license.

BACKGROUND

Tax Returns and Return Information

By law, a "return" is any of the following filed with the DRS commissioner by, on behalf of, or with respect to, anyone: (1) a tax or information return; (2) an estimated tax declaration; (3) a refund claim; or (4) any license, permit, registration, or other application. The term also covers amendments or supplements, including supporting schedules, attachments, or lists that supplement or are part of a filed return.

"Return information" includes:

1. a taxpayer's identity;
2. the nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax collected or withheld, tax under- or over-reportings, or tax payments; and
3. any other data received, recorded, prepared, or collected by or furnished to the DRS commissioner regarding a return or regarding any determination of liability for a tax, penalty, interest, fine, forfeiture, or other imposition or offense (CGS § 12-15 (h)(1) & (2)).

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 51 Nay 0 (04/04/2013)