

ASSEMBLY, No. 3131

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED JUNE 21, 2004

Sponsored by:

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

Co-Sponsored by:

Senator Bryant

SYNOPSIS

Establishes a State tax clearance process for certain business operators that use State licenses to conduct business and for other holders of licenses from State agencies.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/25/2004)

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2

1 AN ACT providing a State tax clearance process for certain businesses
2 and holders of licenses from State agencies, amending and
3 supplementing P.L.1995, c.158 and amending R.S.54:50-9.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 1 of P.L.1995, c.158 (C.54:50-24) is amended to read
9 as follows:

10 1. As used in this act:

11 "Business entity" means any person, including but not limited to an
12 individual who is a sole proprietor, that uses a license to conduct or
13 operate a trade, business, occupation or profession in the State, other
14 than as an employee, and that may be subject to State taxes on
15 business related income;

16 "Director" means the Director of the Division of Taxation in the
17 Department of the Treasury;

18 "License" means the whole or part of any State agency permit,
19 certificate, approval, registration, charter or similar form of permission
20 to engage in a profession, trade, business or occupation and any
21 notification required to be made to any State agency that a profession,
22 trade, business or occupation is being engaged in or is expected to be
23 commenced; provided however, that "license" shall not include any
24 original charter or certificate of incorporation granted by any State
25 agency;

26 "Person" means an individual, partnership, society, association,
27 firm, joint stock company, corporation, estate, receiver, trustee,
28 assignee, referee, or any other entity acting in a fiduciary or
29 representative capacity, whether appointed by a court or otherwise, or
30 any entity that is a combination of the entities set forth herein;

31 "S corporation" means a corporation included in the definition of
32 an "S corporation" pursuant to section 1361 of the federal Internal
33 Revenue Code of 1986, 26 U.S.C. s.1361; **[and]**

34 "State agency" means the Judicial, Legislative or Executive branch
35 of the State of New Jersey, including but not limited to any
36 department, board, bureau, commission, division, office, council,
37 agency, or instrumentality thereof, or independent agency, public
38 authority or public benefit corporation; and

39 "State tax indebtedness" means the amount of State tax, interest,
40 penalties, and any related fees owed by a person, including any
41 statutory fee for the cost of collection imposed pursuant to section 8
42 of P.L.1987, c.76 (C.54:49-12.1), to the director.

43 (cf: P.L.1995, c.158, s.1)

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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1 2. Section 3 of P.L.1995, c.158 (C.54:50-26) is amended to read
2 as follows:

3 3. a. Notwithstanding any other provision of law, a State agency
4 shall, upon request of the director, furnish the following information
5 with respect to each person covered by this act:

6 (1) business name or the name under which the applicant for a
7 license or licenses will be licensed or is licensed;

8 (2) business address or whatever type of address the State agency
9 requires from the applicant for a license or the licensee to furnish to
10 the agency including an Internet address; [and]

11 (3) federal social security number or federal taxpayer identification
12 number, or both numbers when the person has both numbers, or the
13 reason or reasons, furnished by the person, why the person does not
14 have either number; and

15 (4) as to holders of licenses, but not pending applicants for
16 licenses, the information, if any, upon which the State agency has
17 identified that a licensee is a business entity.

18 b. The reports of information required under subsection a. of this
19 section shall be submitted on a compatible magnetic tape file or in
20 some other form which is mutually acceptable to the State agency and
21 the director. Information as to current licensees shall be submitted to
22 the director within the time prescribed in the director's request, or at
23 such other mutually agreeable time.

24 (cf: P.L.1995, c.158, s.3)

25

26 3. (New section) If the director does not already possess the
27 information set forth in paragraph (3) of subsection a. of section 3 of
28 P.L.1995, c.158 (C.54:50-26) as to a licensee, the director shall send
29 a preliminary notice to each person identified as a business entity by
30 a State agency as a result of an initial request by the director,
31 requesting verification, in a manner to be prescribed by the director,
32 of the business name, business address and federal social security
33 number or federal taxpayer identification number. If no federal social
34 security number or federal taxpayer identification number was
35 provided to the director by the State agency, the preliminary notice
36 shall require a person identified as a business entity by a State agency
37 to provide such information to the director, pursuant to the authority
38 under 42 U.S.C. s.405(c)(2)(C)(i). The preliminary notice shall advise
39 that person that the information required under section 3 of P.L.1995,
40 c.158 (C.54:50-26) has been provided to the director for purposes of
41 reviewing the person's compliance with appropriate State tax laws, as
42 a condition to the continued licensing of the person by the State
43 agency, and to update or correct, as necessary, the tax records and
44 files of the director. The director shall forward a preliminary notice
45 only after the initial request has been made to a State agency for the
46 information required by section 3 of P.L.1995, c.158.

1 4. (New section) It shall be the responsibility of a State agency to
2 require federal social security numbers and federal taxpayer
3 identification numbers, as appropriate, from its licensees for the
4 purpose of State tax administration and to provide appropriate notice
5 of the requirements of this section for all requests by the director for
6 such information that occur after the initial request by the director
7 pursuant to section 3 of P.L.2004, c. (C.) for the
8 information required from licensees that the State agency has identified
9 as a business entity.

10

11 5. (New section) a. (1) Following the preliminary notice required
12 by subsection a. of section 3 of P.L.2004, c. (C.), the director
13 shall review the State tax compliance status of each person identified
14 by a State agency as a business entity pursuant to section 3 of
15 P.L.1995, c.158 (C.54:50-26), and verify compliance with the business
16 registration requirements of any State tax administered by the Division
17 of Taxation. The director shall notify those persons not registered
18 with the division and provide that person with 10 days to comply with
19 that registration requirement.

20 (2) As to licensees for which the director has received any
21 information set forth in paragraphs (1) through (3) of subsection a. of
22 section 3 of P.L.1985, c.158 (C.54:50-26), from any State agency,
23 including from the Division of Taxation, independent of any
24 information identifying the licensee as a business entity, the director
25 shall review the State tax compliance status of each such licensee and
26 verify compliance with the business registration requirements of any
27 State tax administered by the Division of Taxation. The director shall
28 notify a person not registered with the division and provide that person
29 with 10 days to comply with that registration requirement.

30 b. (1) If the State tax compliance review of any license holder
31 discloses a State tax indebtedness of that person reduced to judgment
32 by the filing of a certificate of debt by the director or a State tax
33 indebtedness finally determined after the exhaustion of remedies
34 provided pursuant to the State Uniform Tax Procedure Law,
35 R.S.54:48-1 et seq., or following the failure of a person to exercise
36 available remedies, then the director shall notify the person of the
37 intent to demand the suspension of the person's license by the State
38 agency. No additional right to protest or appeal the State tax
39 indebtedness shall be available to any person pursuant to this
40 paragraph.

41 (2) If the State tax compliance review discloses a State tax
42 indebtedness that (a) is not a certificate of debt, (b) is not a State tax
43 indebtedness that has been finally determined after the exhaustion of
44 remedies provided pursuant to the State Uniform Tax Procedure Law,
45 R.S.54:48-1 et seq., or (c) is not a State tax indebtedness that has
46 followed the failure of a person to exercise available remedies, the

1 director shall forward a notice of tax delinquency or tax deficiency, or
2 both, and the person may remit the State tax indebtedness to the
3 director or contest the State tax indebtedness in accordance with the
4 State Uniform Tax Procedure Law, R.S.54:48-1 et seq. The director
5 shall not seek to suspend a license during the time available to contest
6 the notice of tax delinquency or tax deficiency.

7 c. By written notice to a State agency, the director shall demand
8 the suspension of a license of a person (1) to whom a notice has been
9 provided pursuant to paragraph (1) of subsection b. of this section, or
10 (2) to whom a notice of tax delinquency or tax deficiency has been
11 provided pursuant to paragraph (2) of subsection b. of this section
12 after the time to contest the notice has expired or after the exhaustion
13 of available remedies. Upon receipt of the director's notice, a State
14 agency shall suspend the license effective as of a date mutually agreed
15 upon by the director and the State agency. Notwithstanding any other
16 law to the contrary, no person shall have the right to a hearing prior
17 to the imposition of the suspension.

18

19 6. Section 4 of P.L.1995, c.158 (C.54:50-27) is amended to read
20 as follows:

21 4. Notwithstanding any other provision of law, the information and
22 report to be furnished by the State agency to the director shall not
23 constitute a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) or
24 any court decision, or a government record subject to access pursuant
25 to P.L.2001, c.404, and shall not otherwise be open to the public for
26 inspection. The information and report furnished by any State agency
27 under the provisions of this act shall be a record or file subject to the
28 provisions of R.S.54:50-8 and R.S.54:50-9.

29 (cf: P.L.1995, c.158, s.4)

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31 7. R.S.54:50-9 is amended to read as follows:

32 54:50-9. Nothing herein contained shall be construed to prevent:

33 a. The delivery to a taxpayer or the taxpayer's duly authorized
34 representative of a copy of any report or any other paper filed by the
35 taxpayer pursuant to the provisions of this subtitle or of any such State
36 tax law;

37 b. The publication of statistics so classified as to prevent the
38 identification of a particular report and the items thereof;

39 c. The director, in the director's discretion and subject to
40 reasonable conditions imposed by the director, from disclosing the
41 name and address of any licensee under any State tax law, unless
42 expressly prohibited by such State tax law;

43 d. The inspection by the Attorney General or other legal
44 representative of this State of the reports or files relating to the claim
45 of any taxpayer who shall bring an action to review or set aside any
46 tax imposed under any State tax law or against whom an action or

1 proceeding has been instituted in accordance with the provisions
2 thereof;

3 e. The examination of said records and files by the Comptroller,
4 State Auditor or State Commissioner of Finance, or by their respective
5 duly authorized agents;

6 f. The furnishing, at the discretion of the director, of any
7 information contained in tax reports or returns or any audit thereof or
8 the report of any investigation made with respect thereto, filed
9 pursuant to the tax laws, to the taxing officials of any other state, the
10 District of Columbia, the United States and the territories thereof,
11 providing said jurisdictions grant like privileges to this State and
12 providing such information is to be used for tax purposes only;

13 g. The furnishing, at the discretion of the director, of any material
14 information disclosed by the records or files to any law enforcing
15 authority of this State who shall be charged with the investigation or
16 prosecution of any violation of the criminal provisions of this subtitle
17 or of any State tax law;

18 h. The furnishing by the director to the State agency responsible
19 for administering the Child Support Enforcement program pursuant to
20 Title IV-D of the federal Social Security Act, Pub. L.93-647 (42
21 U.S.C. s.51 et seq.), with the names, home addresses, social security
22 numbers and sources of income and assets of all absent parents who
23 are certified by that agency as being required to pay child support,
24 upon request by the State agency and pursuant to procedures and in
25 a form prescribed by the director;

26 i. The furnishing by the director to the Board of Public Utilities any
27 information contained in tax information statements, reports or returns
28 or any audit thereof or a report of any investigation made with respect
29 thereto, as may be necessary for the administration of P.L.1991, c.184
30 (C.54:30A-18.6 et al.) and P.L.1997, c.162 (C.54:10A-3 et al.);

31 j. The furnishing by the director to the Director of the Division of
32 Alcoholic Beverage Control in the Department of Law and Public
33 Safety any information contained in tax information statements,
34 reports or returns or any audit thereof or a report of any investigation
35 made with respect thereto, as may be relevant, in the discretion of the
36 director, in any proceeding conducted for the issuance, suspension or
37 revocation of any license authorized pursuant to Title 33 of the
38 Revised Statutes;

39 k. The inspection by the Attorney General or other legal
40 representative of this State of the reports or files of any tobacco
41 product manufacturer, as defined in section 2 of P.L.1999, c.148
42 (C.52:4D-2), for any period in which that tobacco product
43 manufacturer was not or is not in compliance with subsection a. of
44 section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed
45 distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-2),
46 for the purpose of facilitating the administration of the provisions of

1 P.L.1999, c.148 (C.52:4D-1 et seq.);

2 1. The furnishing by the director to a State agency as defined in
3 section 1 of P.L.1995, c.158 (C.54:50-24) the names of licensees
4 subject to suspension for non-payment of State tax indebtedness
5 pursuant to P.L.2004, c. (C.).
6 (cf: P.L.2001, c.358, s.1)

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8 8. This act shall take effect immediately.

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STATEMENT

12

13 This bill establishes a State tax clearance process for certain
14 businesses that are holders of licenses from State agencies and other
15 holders of licenses from State agencies, which licensees may have
16 State tax indebtedness. This bill extends this process to State agency
17 licensees that an agency has identified as using a licensee as a business
18 entity to conduct or operate a trade, business, occupation or
19 profession in the State, other than as an employee, and that may be
20 subject to State taxes on business related income. This process is also
21 extended to other State agency licensees for which the director has
22 received any other identifying information in the possession of a State
23 agency that may be used currently by the Director of the Division of
24 Taxation in the enforcement of State tax laws.

25 The Director of the Division of Taxation will provide a preliminary
26 notice to businesses that have information that will be requested from
27 the licensing agency that identifies them as a business entity using the
28 license. The identifying information, including social security numbers
29 or federal taxpayer identification numbers, will be obtained for
30 purposes of reviewing the business' compliance with appropriate State
31 tax laws, as a condition to the continued licensing of the business by
32 the State agency, and to update or correct, as necessary, the tax
33 records and files of the director.

34 Further, notice will be provided to those businesses, and the other
35 licensees subject to this bill, that do not appear to be in compliance
36 with State tax laws including the business registration requirements of
37 those laws. This notice will afford the business and those licensees
38 with an opportunity to exercise any remedies that may remain under
39 the State tax laws. If a State tax indebtedness of the business or the
40 other licensee is discovered after all State taxpayer remedies have been
41 exhausted the director will provide further notice of the director's
42 intention to request that the State license be suspended.

43 This bill will ensure that the privilege of holding a State license,
44 including registrations and certificates that are necessary to conduct
45 or operate a trade, business, occupation or profession in the State, will
46 not be extended to State tax debtors.