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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4575

03/04/2024 Authored by Davids
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; creating a coin-operated amusement device gross receipts tax;
1.3 removing coin-operated amusement devices from the definition of sale and purchase
1.4 for the sales and use tax; making technical changes; amending Minnesota Statutes
1.5 2022, section 297A.68, subdivisions 3a, 45; Minnesota Statutes 2023 Supplement,
1.6 section 297A.61, subdivision 3; proposing coding for new law in Minnesota
1.7 Statutes, chapter 295.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. 295.85 COIN-OPERATED AMUSEMENT DEVICE TAX.

1.10 Subdivision 1. Definitions (a) For purposes of this section, the following terms have
1.11 the meanings given.

1.12 (b) "Amusement device" means any electronic or mechanical machine or device that
1.13 operates to provide entertainment or amusement, including but not limited to bowling alleys,
1.14 fortune-telling machines, cranes, foosball tables, pool tables, video games, pinball machines,
1.15 batting cages, rides, photo or video booths, shuffleboard tables, air hockey tables, arcade
1.16 games, shooting gallery games, dart boards, and jukeboxes. An amusement device does not
1.17 include vending machines, lottery devices, or gaming devices as described in chapters 297E
1.18 and 349.

1.19 (c) "Coin-operated" means a device that is activated and operated by the purchaser upon
1.20 providing the device with a payment or payment indicator by inserting a coin, paper currency,
1.21 or token; swiping a card; entering a code; or using an electronic payment method.

1.22 (d) "Commissioner" means the commissioner of revenue.

2.1 (e) "Gross receipts" means the total amount received in money or by barter or exchange
2.2 for sales derived from the making available of amusement devices for play as measured by
2.3 the sales price.

2.4 Subd. 2. **Tax imposed.** A tax equal to 6.875 percent of gross receipts from making
2.5 available any coin-operated amusement device for play is imposed on the owners of each
2.6 device operated in Minnesota. The tax imposed by this section is in lieu of the taxes imposed
2.7 by chapter 297A.

2.8 Subd. 3. **Administration.** Unless specifically provided otherwise, the audit, assessment,
2.9 refund, penalty, interest, enforcement, collection remedies, appeal, and administrative
2.10 provisions of chapters 270C and 289A that are applicable to taxes imposed under chapter
2.11 297A apply to the tax imposed under this section.

2.12 Subd. 4. **Returns; payment of tax.** (a) An owner of a coin-operated amusement device
2.13 must report the tax on a return prescribed by the commissioner and must remit the tax in a
2.14 form and manner prescribed by the commissioner. The return and the tax must be filed and
2.15 paid using the filing cycle and due dates provided for taxes imposed under section 289A.20,
2.16 subdivision 4, and chapter 297A.

2.17 (b) Interest must be paid on an overpayment refunded or credited to the taxpayer from
2.18 the date of payment of the tax until the date the refund is paid or credited. For purposes of
2.19 this subdivision, the date of payment is the due date of the return or the date of actual
2.20 payment of the tax, whichever is later.

2.21 Subd. 5. **Deposit of revenues.** The commissioner must deposit the revenues, including
2.22 penalties and interest, derived from the tax imposed by this section as follows:

2.23 (1) The revenue derived from the portion of the tax equal to 6.5 percent must be deposited
2.24 into the general fund; and

2.25 (2) The revenue derived from the portion of the tax equal to 0.375 percent must be
2.26 deposited pursuant to Minnesota Constitution, article XI, section 15.

2.27 Subd. 6. **Personal debt.** The tax imposed by this section, and interest and penalties
2.28 imposed with respect to the tax, are a personal debt of the person required to file a return
2.29 from the time that the liability for the tax arises, irrespective of when the time for payment
2.30 of the liability occurs. The debt must, in the case of the executor or administrator of the
2.31 estate of a decedent and in the case of a fiduciary, be that of the person in the person's official
2.32 or fiduciary capacity only, unless the person has voluntarily distributed the assets held in

3.1 that capacity without reserving sufficient assets to pay the tax, interest, and penalties, in
3.2 which event the person is personally liable for any deficiency.

3.3 **EFFECTIVE DATE.** This section is effective July 1, 2024.

3.4 Sec. 2. Minnesota Statutes 2023 Supplement, section 297A.61, subdivision 3, is amended
3.5 to read:

3.6 Subd. 3. **Sale and purchase.** (a) "Sale" and "purchase" include, but are not limited to,
3.7 each of the transactions listed in this subdivision. In applying the provisions of this chapter,
3.8 the terms "tangible personal property" and "retail sale" include the taxable services listed
3.9 in paragraph (g), clause (6), items (i) to (vi) and (viii), and the provision of these taxable
3.10 services, unless specifically provided otherwise. Services performed by an employee for
3.11 an employer are not taxable. Services performed by a partnership or association for another
3.12 partnership or association are not taxable if one of the entities owns or controls more than
3.13 80 percent of the voting power of the equity interest in the other entity. Services performed
3.14 between members of an affiliated group of corporations are not taxable. For purposes of
3.15 the preceding sentence, "affiliated group of corporations" means those entities that would
3.16 be classified as members of an affiliated group as defined under United States Code, title
3.17 26, section 1504, disregarding the exclusions in section 1504(b).

3.18 (b) Sale and purchase include:

3.19 (1) any transfer of title or possession, or both, of tangible personal property, whether
3.20 absolutely or conditionally, for a consideration in money or by exchange or barter; and

3.21 (2) the leasing of or the granting of a license to use or consume, for a consideration in
3.22 money or by exchange or barter, tangible personal property, other than a manufactured
3.23 home used for residential purposes for a continuous period of 30 days or more.

3.24 (c) Sale and purchase include the production, fabrication, printing, or processing of
3.25 tangible personal property for a consideration for consumers who furnish either directly or
3.26 indirectly the materials used in the production, fabrication, printing, or processing.

3.27 (d) Sale and purchase include the preparing for a consideration of food. Notwithstanding
3.28 section 297A.67, subdivision 2, taxable food includes, but is not limited to, the following:

3.29 (1) prepared food sold by the retailer;

3.30 (2) soft drinks;

3.31 (3) candy; and

3.32 (4) dietary supplements.

4.1 (e) A sale and a purchase includes the furnishing for a consideration of electricity, gas,
4.2 water, or steam for use or consumption within this state.

4.3 (f) A sale and a purchase includes the transfer for a consideration of prewritten computer
4.4 software whether delivered electronically, by load and leave, or otherwise.

4.5 (g) A sale and a purchase includes the furnishing for a consideration of the following
4.6 services:

4.7 (1) the privilege of admission to places of amusement, recreational areas, or athletic
4.8 events, and the making available of ~~amusement devices~~, tanning facilities, reducing salons,
4.9 steam baths, health clubs, and spas or athletic facilities;

4.10 (2) lodging and related services by a hotel, rooming house, resort, campground, motel,
4.11 or trailer camp, including furnishing the guest of the facility with access to telecommunication
4.12 services, and the granting of any similar license to use real property in a specific facility,
4.13 other than the renting or leasing of it for a continuous period of 30 days or more under an
4.14 enforceable written agreement that may not be terminated without prior notice and including
4.15 accommodations intermediary services provided in connection with other services provided
4.16 under this clause;

4.17 (3) nonresidential parking services, whether on a contractual, hourly, or other periodic
4.18 basis, except for parking at a meter;

4.19 (4) the granting of membership in a club, association, or other organization if:

4.20 (i) the club, association, or other organization makes available for the use of its members
4.21 sports and athletic facilities, without regard to whether a separate charge is assessed for use
4.22 of the facilities; and

4.23 (ii) use of the sports and athletic facility is not made available to the general public on
4.24 the same basis as it is made available to members.

4.25 Granting of membership means both onetime initiation fees and periodic membership dues.
4.26 Sports and athletic facilities include golf courses; tennis, racquetball, handball, and squash
4.27 courts; basketball and volleyball facilities; running tracks; exercise equipment; swimming
4.28 pools; and other similar athletic or sports facilities;

4.29 (5) delivery of aggregate materials by a third party, excluding delivery of aggregate
4.30 material used in road construction; and delivery of concrete block by a third party if the
4.31 delivery would be subject to the sales tax if provided by the seller of the concrete block.
4.32 For purposes of this clause, "road construction" means construction of:

- 5.1 (i) public roads;
- 5.2 (ii) cartways; and
- 5.3 (iii) private roads in townships located outside of the seven-county metropolitan area
5.4 up to the point of the emergency response location sign; and
- 5.5 (6) services as provided in this clause:
- 5.6 (i) laundry and dry cleaning services including cleaning, pressing, repairing, altering,
5.7 and storing clothes, linen services and supply, cleaning and blocking hats, and carpet,
5.8 drapery, upholstery, and industrial cleaning. Laundry and dry cleaning services do not
5.9 include services provided by coin operated facilities operated by the customer;
- 5.10 (ii) motor vehicle washing, waxing, and cleaning services, including services provided
5.11 by coin operated facilities operated by the customer, and rustproofing, undercoating, and
5.12 towing of motor vehicles;
- 5.13 (iii) building and residential cleaning, maintenance, and disinfecting services and pest
5.14 control and exterminating services;
- 5.15 (iv) detective, security, burglar, fire alarm, and armored car services; but not including
5.16 services performed within the jurisdiction they serve by off-duty licensed peace officers as
5.17 defined in section 626.84, subdivision 1, or services provided by a nonprofit organization
5.18 or any organization at the direction of a county for monitoring and electronic surveillance
5.19 of persons placed on in-home detention pursuant to court order or under the direction of the
5.20 Minnesota Department of Corrections;
- 5.21 (v) pet grooming services;
- 5.22 (vi) lawn care, fertilizing, mowing, spraying and sprigging services; garden planting
5.23 and maintenance; tree, bush, and shrub pruning, bracing, spraying, and surgery; indoor plant
5.24 care; tree, bush, shrub, and stump removal, except when performed as part of a land clearing
5.25 contract as defined in section 297A.68, subdivision 40; and tree trimming for public utility
5.26 lines. Services performed under a construction contract for the installation of shrubbery,
5.27 plants, sod, trees, bushes, and similar items are not taxable;
- 5.28 (vii) massages, except when provided by a licensed health care facility or professional
5.29 or upon written referral from a licensed health care facility or professional for treatment of
5.30 illness, injury, or disease; and
- 5.31 (viii) the furnishing of lodging, board, and care services for animals in kennels and other
5.32 similar arrangements, but excluding veterinary and horse boarding services.

6.1 (h) A sale and a purchase includes the furnishing for a consideration of tangible personal
6.2 property or taxable services by the United States or any of its agencies or instrumentalities,
6.3 or the state of Minnesota, its agencies, instrumentalities, or political subdivisions.

6.4 (i) A sale and a purchase includes the furnishing for a consideration of
6.5 telecommunications services, ancillary services associated with telecommunication services,
6.6 and pay television services. Telecommunication services include, but are not limited to, the
6.7 following services, as defined in section 297A.669: air-to-ground radiotelephone service,
6.8 mobile telecommunication service, postpaid calling service, prepaid calling service, prepaid
6.9 wireless calling service, and private communication services. The services in this paragraph
6.10 are taxed to the extent allowed under federal law.

6.11 (j) A sale and a purchase includes the furnishing for a consideration of installation if the
6.12 installation charges would be subject to the sales tax if the installation were provided by
6.13 the seller of the item being installed.

6.14 (k) A sale and a purchase includes the rental of a vehicle by a motor vehicle dealer to a
6.15 customer when (1) the vehicle is rented by the customer for a consideration, or (2) the motor
6.16 vehicle dealer is reimbursed pursuant to a service contract as defined in section 59B.02,
6.17 subdivision 11.

6.18 (l) A sale and a purchase includes furnishing for a consideration of specified digital
6.19 products or other digital products or granting the right for a consideration to use specified
6.20 digital products or other digital products on a temporary or permanent basis and regardless
6.21 of whether the purchaser is required to make continued payments for such right. Wherever
6.22 the term "tangible personal property" is used in this chapter, other than in subdivisions 10
6.23 and 38, the provisions also apply to specified digital products, or other digital products,
6.24 unless specifically provided otherwise or the context indicates otherwise.

6.25 (m) The sale of the privilege of admission under section 297A.61, subdivision 3,
6.26 paragraph (g), clause (1), to a place of amusement, recreational area, or athletic event
6.27 includes all charges included in the privilege of admission's sales price, without deduction
6.28 for amenities that may be provided, unless the amenities are separately stated and the
6.29 purchaser of the privilege of admission is entitled to add or decline the amenities, and the
6.30 amenities are not otherwise taxable.

6.31 (n) A sale and purchase includes the transfer for consideration of a taxable cannabis
6.32 product as defined in section 295.81, subdivision 1, paragraph (r).

6.33 **EFFECTIVE DATE.** This section is effective July 1, 2024.

7.1 Sec. 3. Minnesota Statutes 2022, section 297A.68, subdivision 3a, is amended to read:

7.2 Subd. 3a. **Coin-operated entertainment and amusement devices.** Coin-operated
7.3 entertainment and amusement devices including, but not limited to, fortune-telling machines,
7.4 cranes, foosball and pool tables, video and pinball games, batting cages, rides, photo or
7.5 video booths, and jukeboxes are exempt when purchased by retailers selling admission to
7.6 places of amusement and making available amusement devices as provided in section
7.7 ~~297A.61, subdivision 3, paragraph (g), clause (1)~~ 295.85. Coin-operated entertainment and
7.8 amusement devices do not include vending machines, lottery devices, or gaming devices
7.9 as described in chapters 297E and 349.

7.10 **EFFECTIVE DATE.** This section is effective July 1, 2024.

7.11 Sec. 4. Minnesota Statutes 2022, section 297A.68, subdivision 45, is amended to read:

7.12 Subd. 45. **Jukebox music.** The purchase of music, either as a digital audio work or in
7.13 tangible form such as a record or compact disc, by operators that provide the service of
7.14 making available jukeboxes as amusement devices, as provided in section ~~297A.61,~~
7.15 ~~subdivision 3, paragraph (g), clause (1)~~ 295.85, is exempt if the music is used exclusively
7.16 for the jukebox.

7.17 **EFFECTIVE DATE.** This section is effective July 1, 2024.