

HOUSE BILL 2371

By McCormick

AN ACT to amend Tennessee Code Annotated, Title 55; Title 57 and Title 67, relative to the electronic submission of documents and payments to the Department of Revenue.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 1, Part 1, is amended by adding the following as a new, appropriately designated section:

67-1-_____.

(a) The commissioner is authorized to require that any return, report, claim, statement, application, or other document filed with the department, including any payment or remittance that accompanies such document, be submitted electronically in a manner approved by the commissioner beginning no sooner than ninety (90) days after the commissioner has certified that a system is in place for the electronic submission of such document or payment. Such certification shall be accomplished by the commissioner prominently posting a notice on the department's website.

(b) If an electronic filing requirement imposed pursuant to the authority granted in subsection (a) creates a hardship upon the person subject to the requirement, such person shall be permitted to file the applicable document in paper form. Any such paper filing shall be accompanied by a manual handling fee, not to exceed twenty-five dollars (\$25.00), that is reasonably calculated by the department to account for the additional cost of preparing, printing, receiving, reviewing and processing any paper filing so permitted.

(c) This section shall apply to any tax, regulatory, or other provision of law administered by the department of revenue under this or any other title. This section

shall not, however, be construed to supersede or otherwise affect any electronic filing or payment requirement already provided by law on January 1, 2012, including any penalty or waiver provisions connected therewith, and shall not require the certification of any system already in place before January 1, 2012.

SECTION 2. Tennessee Code Annotated, Title 67, Chapter 1, Part 1, is amended by adding the following as a new, appropriately designated section:

67-1-____.

Notwithstanding any provision of law to the contrary, the commissioner is authorized to deduct and retain from the proceeds of any tax administered and collected by the commissioner an amount necessary to offset the fee paid to a third party for the processing of documents and payments that are submitted electronically to the department.

SECTION 3. Tennessee Code Annotated, Title 67, Chapter 1, Part 1, is amended by adding the following as a new, appropriately designated section:

67-1-____.

Notwithstanding any provision to the contrary, when any provision administered by the commissioner requires that any document be filed, submitted, or retained in paper, microfiche, or any other non-digital format, the commissioner is authorized to permit the filing, submission, or retention of such document in a digital format.

SECTION 4. Tennessee Code Annotated, Section 67-3-706(b), is amended by deleting the language “of five hundred dollars (\$500)” and substituting instead the language “, not to exceed five hundred dollars (\$500),”.

SECTION 5. Tennessee Code Annotated, Section 67-4-715(d), is amended by deleting subdivision (3) in its entirety and by substituting instead the following:

(3) In addition to any other penalty provided by law, the commissioner is authorized to assess any taxpayer required to file returns by electronic means under this subsection a penalty, not to exceed five hundred dollars (\$500), for each instance of filing a return by any other means. The penalty shall be subject to waiver under the provisions of § 67-1-803. In extenuating circumstances, the commissioner is authorized to waive the electronic payment and filing requirements under this subsection and permit the taxpayer to file the return in paper form. Any such paper filing shall be accompanied by a manual handling fee, not to exceed twenty-five dollars (\$25.00), that is reasonably calculated by the department to account for the additional cost of preparing, printing, receiving, reviewing and processing any paper filing so permitted.

SECTION 6. Tennessee Code Annotated, Section 67-4-715, is amended by adding the following language as a new subsection (g):

(g) Notwithstanding subsections (a) and (b), the commissioner is authorized to change the due date of the tax levied by this part and the associated tax return to coincide with the taxpayer's fiscal year. Such change is authorized to occur no sooner than ninety (90) days after the commissioner has certified that a system is in place for the electronic submission of all tax returns required by this part. Such certification shall be accomplished by the commissioner prominently posting a notice on the department's website.

SECTION 7. Tennessee Code Annotated, Section 67-6-504(f), is amended by deleting the last sentence and by substituting instead the following:

In extenuating circumstances, the commissioner is authorized to waive the electronic payment and filing requirements under this subsection (f) and under § 67-1-703(b) and permit the taxpayer to file the return in paper form. Any such paper filing shall be accompanied by a manual handling fee, not to exceed twenty-five dollars (\$25.00), that

is reasonably calculated by the department to account for the additional cost of preparing, printing, receiving, reviewing and processing any paper filing so permitted.

SECTION 8. Tennessee Code Annotated, Section 67-6-504, is amended by deleting subsection (g) in its entirety and by substituting instead the following:

(g) In addition to any other penalty provided by law, the commissioner is authorized to assess any taxpayer required to file returns by electronic means under subsection (f) a penalty, not to exceed five hundred dollars (\$500), for each instance of filing a return by any other means. Such penalty shall be subject to waiver under the provisions of § 67-1-803.

SECTION 9. Tennessee Code Annotated, Section 67-6-523, is amended by deleting subsection (c) in its entirety and by substituting instead the following:

(c)

(1) In order to aid in the administration and enforcement of this chapter and to collect all of the tax imposed by this chapter, any wholesaler and other dealer making sales for resale in this state is required to keep a record of all sales of tangible personal property made in this state. The records required to be kept under this subsection (c) shall include the name, address, and sales tax account number of the purchaser, the products sold to the purchaser, the quantity and price of each product sold to the purchaser, and the date of the sale to the purchaser. These records shall be kept for a period of three (3) years from December 31 of the year in which the associated return required by this chapter was filed and shall be open to inspection by the commissioner, or any duly appointed personnel of the department, at all reasonable hours.

(2) The commissioner is authorized to require any wholesaler or other dealer subject to the requirements of this subsection (c) to submit to the

department a report containing such information as deemed necessary by the commissioner to ascertain the correctness of any tax return or to determine the liability of any person taxable under this part. Such report shall be submitted in an electronic format specified by the commissioner and shall be delivered by electronic means within fifteen (15) days of the commissioner's request or the end of the period covered by the report, whichever is later. In extenuating circumstances, the commissioner is authorized to waive the requirement that the report be submitted electronically. In addition to any other penalty provided by law, any person who fails to submit a report required by this subdivision (2) shall be assessed a penalty, not to exceed five hundred dollars (\$500), and shall be assessed an additional penalty, not to exceed five hundred dollars (\$500), for each subsequent month that the report is not provided, up to a maximum amount of ten thousand dollars (\$10,000) for any twenty-four (24) month period. Such penalty shall be subject to waiver under the provisions of § 67-1-803.

SECTION 10. Tennessee Code Annotated, Sections 57-5-206(b) and 57-6-105(c), are amended by deleting the language "microfiche" and by substituting instead the language "digital."

SECTION 11. Tennessee Code Annotated, Section 57-6-105, is amended by deleting subsection (b) in its entirety and renumbering the remaining sections accordingly.

SECTION 12. Tennessee Code Annotated, Title 55, Chapter 2, Part 1, is amended by adding the following as a new, appropriately designated section:

55-2-___.

Notwithstanding any provision to the contrary, when any provision in chapter 1, this chapter, or chapters 3-6 of this title requires that any document be filed, submitted, or retained in paper, microfiche, or any other non-digital format, the commissioner is

authorized to permit the filing, submission, or retention of such document in a digital format.

SECTION 13. This act shall take effect upon becoming a law, the public welfare requiring it.