

CHAPTER 118.

[S. B. 274.]

TAXATION OF CERTAIN MECHANICAL DEVICES.

AN ACT relating to taxation; imposing a tax with respect to persons engaging in business as operators of certain mechanical devices and providing for the collection and enforcement thereof; adding a new title to chapter 180, Laws of 1935, to be known as Title XIII, and amending section 187 of chapter 180, Laws of 1935, as amended by section 16, chapter 227, Laws of 1937 (section 8370-187, Remington's Revised Statutes); and declaring an emergency whereby the act is to take effect immediately.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That chapter 180, Laws of 1935, as amended by chapters 191 and 227, Laws of 1937, and chapter 225, Laws of 1939 (sections 8370-1 to 8370-220, inclusive, Remington's Revised Statutes) be and the same is hereby amended by adding thereto a new title after Title XII to be designated Title XIII, reading as follows:

Amendments.

Title XIII. Tax on certain Mechanical Devices.

Title.

Section 96. From and after the first day of May, 1941, there is hereby levied and there shall be collected from every person a tax for the act or privilege of engaging in business as an operator of certain mechanical devices irrespective of whether such activity shall be legal or illegal under the laws of this state or any subdivision thereof: *Provided, however,* Nothing in this act shall be construed to legalize any activity now or hereafter declared to be in violation of the laws of this state or any subdivision thereof, but the illegality of any such activity shall not be a defense or bar to the collection of any tax imposed thereon by this act. Such tax shall be measured by the application of rates against the gross operating income of the business as follows:

Tax on mechanical device levied.

Fixed on per cent of gross income.

(a) Upon every person engaging within this state in business as an operator of any pinball ma-

Description
of machine.

chine, iron claw machine, travelling crane or other similar mechanical device wherein the element of skill or a combination of the elements of chance and skill is involved in determining a pay out to the player, as to such persons the amount of tax on such business shall be equal to the gross operating income of the business multiplied by the rate of ten per cent;

10 per cent of
gross income.

20 per cent
on chance
only.

(b) Upon every person engaging within this state in business as an operator of any mechanical device wherein only the element of chance determines a pay-out to the player, as to such persons the amount of tax on such business shall be equal to the gross operating income of the business multiplied by the rate of twenty per cent.

Definitions.

Section 97. For the purposes of this title, unless otherwise required by the context:

(a) The word "operator" as used herein means the person to whom gross operating income accrues as a result of the operation of the mechanical devices described herein whether such person is the owner or lessee thereof.

(b) The term "gross operating income" means the gross amount paid in by every player during each calendar month, less the amount of gross pay-outs made to such players, but without any deduction for amounts paid out to persons on whose premises the mechanical device is located or amounts paid out for any other purposes whatsoever.

(c) The term "pay-out," as used herein, means any cash payment automatically returned to a player by the mechanical device, or any cash, merchandise or thing of value won by or given to the player by or on behalf of the operator.

(d) The word "player," as used herein, means the person to whom a pay-out accrues.

(e) The meaning ascribed to words and phrases

under Titles II and III of this act, where applicable, shall apply equally in respect to this title.

Section 98. In addition to the duty of the taxpayer to keep books and records as imposed by section 190, it shall also be the duty of every person who, for a percentage of any portion of the gross operating income, permits the operation upon his premises of the mechanical devices described herein, to keep and preserve, for a period of one year, suitable records to reflect the name of the operator and a description of such devices, the gross operating income therefrom and such other information as the Tax Commission may by general regulation require, which records shall be open to examination at any time by the Tax Commission or its duly authorized agent. In the event any such person shall fail to keep such records, he shall thereupon become liable for all tax due hereunder as an operator of such mechanical device.

Duty to keep records of income.

Records open to Tax Commission.

Section 99. The taxes imposed hereunder shall be due and payable in bi-monthly installments and remittance therefor shall be made on or before the fifteenth day of each odd-numbered month of each calendar year next succeeding the end of the bi-monthly period in which the tax accrued. The taxpayer, on or before said fifteenth day of said month, shall make out and sign a return, upon such forms and setting forth such information as the Tax Commission may require, showing the amount of the tax for which he is liable for the preceding bi-monthly period and transmit the same to the Tax Commission, together with a remittance for said amount in the form required in Title XVIII of this act. The Tax Commission may, in its discretion, require sworn returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

Tax payable bi-monthly.

To make return.

Tax in
addition to
any other.

Section 100. Gross operating income taxable under the provisions of this title shall not be taxable under the provisions of Title II of this act, but the tax imposed by this title shall be in addition to any other tax to which the taxpayer may be subject under the laws of this state or any subdivision thereof. The state does not by this title preempt the field of imposing taxes or license fees with respect to mechanical devices hereby taxed, and this title shall not be construed to bar counties and incorporated cities or towns from regulating or prohibiting the operation of any such mechanical devices.

Cities may
regulate.

Section 101. All of the provisions contained in Title XVIII of this act shall have full force and application with respect to taxes imposed under the provisions of this title.

Effective
immediately.

SEC. 2. This act is necessary for the immediate support of the state government and its existing public institutions and shall take effect immediately.

Passed the Senate March 13, 1941.

Passed the House March 12, 1941.

Approved by the Governor March 21, 1941.

CHAPTER 119.

[S. B. 262.]

TAXATION OF CERTAIN GIFTS.

AN ACT relating to revenue and taxation; providing for the levying and collection of an excise tax on the privilege of transferring property by gift, providing for penalties, and providing that this act shall take effect immediately.

Be it enacted by the Legislature of the State of Washington:

Gift tax.

SECTION 1. (a) For year 1941 and each calendar year thereafter a tax, computed as provided in this act, shall be imposed upon the privilege of transfer-