

Chapter 320

1959 REPLACEMENT PART

Privilege Taxes

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320.005 Definitions. As used in this chapter, unless the context requires otherwise:

(1) A "device," whether music or amusement, shall include any mechanical, electronic, mechanical-electronic or nonmechanical device.

(2) "Displayed or operated" means the display of any music or amusement device for use by the public or the operation by the public of such device and shall include those music and amusement devices which are displayed or operated by or for the use of members of any private club, lodge, fraternal society or other like organization whose membership is limited to a portion of the public. [1957 c.384 §2]

320.010 Privilege tax imposed on music and amusement devices. (1) There hereby is imposed on every music and amusement device of every description or designation displayed or operated in this state, a privilege tax, as specified in this chapter; provided, however, that such tax shall not be imposed upon any device licensed under ORS 464.010 and 464.020, relating to poolrooms and bowling alleys.

(2) The amount of the privilege tax and the property subject to the tax shall be as follows:

(a) On every coin-in-the-slot-operated game or device designed to be played for amusement or replay, other than music only, unless classified under paragraph (b), (c) or (d) of this subsection, an annual tax of \$50 for each coin-receiving slot.

(b) On coin-in-the-slot-operated (A) radios, (B) television sets, (C) devices designed to provide music only and to perform no other function and (D) devices designed to furnish pleasure or amusement by providing rides on imitation horses, rocket ships and similar devices, an annual tax of \$10 on a single instrument or device in each of the categories (A) to (D), an annual tax of \$1 on each additional instrument or device in the same category maintained on the same premises and an annual tax of \$1 on each coin-receiving slot, if any, in excess of one, maintained to activate the instrument or device

(c) On every coin-in-the-slot-operated device which is designed to be played for amusement and which may be completely operated by the insertion of one penny only and not otherwise, an annual tax of \$1.

(d) On every coin-in-the-slot-operated device which is designed to be played for amusement and which may be completely operated by the insertion of two pennies only and not otherwise, an annual tax of \$10.

(e) On every coin-in-the-slot-operated device which is designed to be played for amusement and which in its operation shoots or propels an electric light ray or impulse from a gun held and operated by the player of the device to a target which contains a receiving photoelectric cell, an annual tax of \$25.

(f) On every coin-in-the-slot-operated device which is designed to be played for amusement and which in its operation delivers to the player thereof one or more balls which, in order to operate the device, must be rolled from the hand of the player only, and not impelled by a mechanical device, into a cup or receptacle on the device, an annual tax of \$25.

(g) On every non-coin-in-the-slot-operated device which is designed to be played for amusement and as to which the player thereof uses or activates one or more balls or objects which in order to operate the device must be rolled or otherwise impelled from or by the hand of the player or from or by an impeller, mechanical or otherwise, which is operated by the player, into a cup or receptacle, or in, on, at or against other objects on the device, (A) an annual tax of \$25; or (B) if designed to be played by five or more players simultaneously, an annual tax of \$100.

(h) On every other type of device intended to be played for amusement and not classified under paragraph (a) to (g) of this subsection, an annual tax of \$25 for each device. [Amended by 1955 c.574 §1; 1957 c.384 §3; 1959 c.155 §1]

320.015 [1955 c.574 §3; repealed by 1957 c.384 §6]

320.020 Tax as addition to other taxes on same property. The tax imposed by ORS 320.010 is in addition to all other taxes or fees imposed upon the same property by any municipality of this state or by the United States Government.

320.030 Exemptions. This chapter does not apply to coin-in-the-slot-operated devices maintained by any public utility for furnishing service of the public utility, nor to any device which is designed and used strictly as a vendor of merchandise or service and without the elements of chance or prize involved.

320.040 Designation of tax year; computation on basis of quarter years. The tax year, for the purposes of this chapter, begins on July 1 and ends on June 30. The tax payable shall be computed on the basis of quarter years, and shall be paid for the quarter in which it becomes payable plus the remaining quarters in the tax year.

320.050 When tax payable; separate tax on each device; substitution of devices. The tax imposed by this chapter shall be paid to the State Tax Commission by the owner of the property subject to the tax before the property is displayed or operated in this state. A separate and individual tax shall be paid on each displayed or operated device or game described in this chapter. The taxpayer shall, at the time the tax is paid, designate and identify to the commission each game or device by trade name or manufacturer's number if any. However, the substitution of a game or device for a game or device taxable at the same rate, upon which the tax has been paid, shall not be a violation of any section of this chapter, nor shall it result in the imposition of any additional tax upon such substituted game or device. Substitutions shall be reported immediately by the owner or his agent to the commission on forms prescribed by it. [Amended by 1955 c.574 §4; 1957 c.384 §4]

320.060 Issuance of tax receipt; receipt to be displayed. (1) Upon payment of the tax imposed by this chapter, the State Tax Commission shall issue to each taxpayer a receipt for each game or device with respect to which the tax is paid.

(2) No person shall display in any public or private place of amusement or business in this state any property subject to the tax imposed by this chapter unless there is prominently displayed on the premises the receipt of the State Tax Commission for the payment of the tax. Absence of the duly issued tax receipt is prima facie evidence that the tax has not been paid.

(3) No person shall alter or change any State Tax Commission receipt issued pursuant to this section in an attempt to avoid payment of any tax imposed by this chapter.

(4) No person shall avoid or attempt to avoid the payment of any tax due under this chapter by displaying anything similar in design, size or color to a State Tax Commission receipt issued pursuant to this section for any game or device described in this chapter.

(5) No person shall avoid or attempt to avoid the payment of any tax due under this chapter by using the receipt for tax paid on any game or device for any other game or device, except where a substitution is made and reported pursuant to ORS 320.050.

(6) A penalty of \$2 is hereby imposed on the owner of the premises where the game or device is located, for failing to display on the premises a receipt of the State Tax Commission for the tax remitted pursuant to the provisions of this chapter. [Amended by 1955 c.574 §5; 1957 c.384 §5; 1959 c 155 §2]

320.070 Display of property without payment of tax; liability of person in possession of premises; sealing property. (1) If any property subject to tax under this chapter is displayed or permitted to be displayed without the tax therefor first being paid and the receipt displayed as provided in this chapter, the person in possession of the premises where the property is so displayed is liable jointly and severally for the tax and penalty with the owner of the property.

(2) On every game or device found to have been displayed without the tax imposed by this chapter having first been paid, the tax otherwise payable shall be increased by 20 percent as a penalty.

(3) Every agent of the State Tax Commission shall, upon discovery of a game or device being operated or displayed for operation without payment of the tax due, place on said game or device a seal, provided pursuant to regulation, in such a manner as to render such game or device inoperative. The seal shall remain on the game or device until the tax, penalty and interest due under this chapter have all been paid. The seal may be removed only by a duly authorized agent of the State Tax Commission. Any other person tampering with, obliterating, defacing, cutting, breaking or in any manner removing or attempting to remove said seal at any time shall be subject to all the penalties provided in ORS 320.990. [Amended by 1955 c.574 §6; 1959 c.155 §3]

320.080 Procedure on failure to pay tax. If any tax imposed by this chapter is not paid as required by this chapter, the State Tax Commission shall issue a warrant under its hand and official seal directed to the sheriff of any county of the state commanding him to levy upon and sell the real and personal property of the person or persons named in the warrant and liable for the tax

found within his county, for the payment of the amount thereof with the added penalty and the cost of executing the warrant, and to return the warrant to the commission and pay to it the money collected by virtue thereof by a time to be therein specified not more than 30 days from the date of the warrant. The sheriff shall, within five days after the receipt of the warrant, file with the clerk of the county a copy thereof. Thereupon the clerk shall enter in the judgment docket in the column for judgment debtors, the names of the persons mentioned in the warrant, and in appropriate columns the amount of the tax and penalty for which the warrant is issued and the date when such copy is filed. Thereupon the amount of the warrant so docketed shall become a lien upon the title to any interest in real property or personal property of the persons against whom it is issued in the same manner as a judgment duly docketed in the office of the clerk. The sheriff shall thereupon proceed upon the same in all respects, with like effect and in the manner prescribed by law in respect to execution issued against property upon judgment of a court of record, and he is entitled to the same fees for his services in executing the warrant to be collected in the same manner. If a warrant is returned not satisfied in full, the commission shall have the same remedies to enforce the claim for taxes as if the people of the state had recovered judgment for the amount of the tax.

320.090 Civil action to recover unpaid tax. The State Tax Commission may recover any tax payable under this chapter by civil action

320.100 Disposal of tax receipts. (1) After deduction of the reimbursement of the subaccount established by subsection (3) of this section, all money received under this chapter as taxes or penalty shall be paid by the State Tax Commission to the State Treasurer quarterly and shall be by the State Treasurer allocated for the payment of old age assistance in the following manner.

(a) Sixty percent thereof shall be credited to the Public Assistance Fund of the State of Oregon and hereby is appropriated for old age assistance.

(b) Forty percent thereof shall be remitted to the county treasurers of the several counties of the state in the proportion which the amount expended by each county for old age assistance during the preceding fiscal

year bears to the total amount expended by the counties of the state for such purpose during such preceding year.

(2) All revenues received under this section by the treasurers of the several counties shall be placed in a special fund to be expended by the county courts or the board of county commissioners of the several counties for old age assistance.

(3) There hereby is established a subaccount to be known as the Privilege Tax Administration Subaccount. The moneys in the Privilege Tax Administration Subaccount hereby are appropriated continuously for and shall be used to reimburse the General Fund for the expenses incurred in the collection of the taxes imposed by this chapter which have been paid from the General Fund. Whenever the unobligated balance remaining in the Privilege Tax Administration Subaccount is less than \$10,000, the State Tax Commission shall transfer and credit unaccepted amusement device taxes to the Privilege Tax Administration Subaccount in amounts of \$5,000. [Amended by 1959 c 143 §1]

320.110 Rules and regulations. The State Tax Commission may promulgate the rules and regulations necessary for the administration and enforcement of this chapter.

320.120 Employment of agents. The State Tax Commission may employ the agents necessary for the administration and enforcement of this chapter. Agents of the commission charged with the enforcement of this chapter have all the power and authority of police officers in the performance of such duties.

320.130 Law enforcement officers to enforce chapter and assist commission. The state police, sheriffs, constables, police and other law enforcement officers within the State of Oregon shall enforce all provisions of this chapter and shall assist the State Tax Commission.

320.140 Tax does not legalize ownership, display or operation in violation of law. Nothing in this chapter shall be construed as licensing, authorizing or legalizing the ownership, possession, display or operation, in violation of any law of this state, of any of the property taxed under this chapter.

320.150 to 320.980 [Reserved for expansion]

320.990 Penalties. (1) Violation of any provision of this chapter by any person is punishable, upon conviction, by a fine of not more than \$500, or by imprisonment in the county jail for not more than six months, or by both. Justice courts and district courts have concurrent jurisdiction with the circuit courts of any prosecution provided for in this subsection

(2) Violation of subsection (3) of ORS 320 060 is forgery and is punishable as such.

(3) Violation of subsections (4) and (5) of ORS 320.060 and of subsection (3) of ORS 320 070 is punishable, upon conviction, by a fine of not more than \$1,000 or imprisonment in the county jail for not more than one year, or both [Amended by 1955 c 574 §7]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173 170, I, Sam R Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173 160 and other changes specifically authorized by law
Done at Salem, Oregon,
on November 1, 1959

Sam R Haley
Legislative Counsel

