

1 **CONFIDENTIALITY OF TAX INFORMATION**

2 2001 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Karen Hale**

5 **This act modifies the Revenue and Taxation Code to permit disclosure of information in**
6 **certain circumstances particularly those related to motor fuel and aviation fuel taxation.**

7 **This act makes technical changes.**

8 This act affects sections of Utah Code Annotated 1953 as follows:

9 AMENDS:

10 **59-1-403**, as last amended by Chapters 190 and 229, Laws of Utah 2000

11 **59-14-212**, as enacted by Chapter 190, Laws of Utah 2000

12 *Be it enacted by the Legislature of the state of Utah:*

13 Section 1. Section **59-1-403** is amended to read:

14 **59-1-403. Confidentiality -- Penalty -- Application to property tax.**

15 (1) (a) [~~Any tax commissioner, agent, clerk, or other officer or employee of the~~
16 ~~commission or any representative, agent, clerk, or other officer or employee of any county, city,~~
17 ~~or town~~] Except as provided in this section, any of the following may not divulge or make known
18 in any manner any information gained by [him] that person from any return filed with the
19 commission[. The officials]:

20 (i) a tax commissioner;

21 (ii) an agent, clerk, or other officer or employee of the commission; or

22 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

23 (b) Except as provided in Subsection (1)(c), an official charged with the custody of [such
24 returns are] a return filed with the commission is not required to produce [any of them] the return
25 or evidence of anything contained in [them] the return in any action or proceeding in any court,
26 except:

27 ~~(a)~~ (i) in accordance with judicial order;



28 ~~[(b)]~~ (ii) on behalf of the commission in any action or proceeding under;

29 (A) this title; or

30 (B) other law under which persons are required to file returns with the commission;

31 ~~[(c)]~~ (iii) on behalf of the commission in any action or proceeding to which the

32 commission is a party; or

33 ~~[(d)]~~ (iv) on behalf of any party to any action or proceeding under this title ~~[when]~~ if the

34 report or facts shown ~~[thereby]~~ by the return are directly involved in ~~[such]~~ the action or

35 proceeding. ~~[In any event, the]~~

36 (c) Notwithstanding Subsection (1)(b), a court may require the production of, and may

37 admit in evidence, any portion of ~~[reports]~~ a return or of the facts shown by ~~[them]~~ the return, as

38 are specifically pertinent to the action or proceeding.

39 (2) This section does not prohibit:

40 (a) a person or ~~[his]~~ that person's duly authorized representative from receiving a copy of

41 any return or report filed in connection with that person's own tax;

42 (b) the publication of statistics as long as ~~[they]~~ the statistics are classified to prevent the

43 identification of particular reports or returns; and

44 (c) the inspection by the attorney general or other legal representative of the state of the

45 report or return of any taxpayer:

46 (i) who brings action to set aside or review ~~[the]~~ a tax based on ~~[such]~~ the report or return;

47 (ii) against whom an action or proceeding is contemplated or has been instituted under this

48 title; or

49 (iii) against whom the state has an unsatisfied money judgment.

50 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the commission

51 may~~;~~ by rule, made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking

52 Act, provide for a reciprocal exchange of information with:

53 (i) the United States Internal Revenue Service; or

54 (ii) the revenue service of any other state.

55 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and

56 corporate franchise tax, the commission may~~;~~ by rule, made in accordance with Title 63, Chapter

57 46a, Utah Administrative Rulemaking Act, share information gathered from returns and other

58 written statements with the federal government, any other state, any of ~~[their]~~ the political

59 subdivisions of another state, or any political subdivision of this state, except as limited by
 60 Sections 59-12-209 and 59-12-210, if these political subdivisions or the federal government grant
 61 substantially similar privileges to this state.

62 (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and
 63 corporate franchise tax, the commission may~~;~~ by rule, in accordance with Title 63, Chapter 46a,
 64 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the
 65 identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

66 (d) Notwithstanding Subsection (1), the commission shall provide to the Solid and
 67 Hazardous Waste Control Board executive secretary, as defined in Section 19-6-102, as requested
 68 by the executive secretary, any records, returns, ~~[and]~~ or other information filed with the
 69 commission under ~~[Title 59,]~~ Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5
 70 regarding the environmental assurance program participation fee~~;~~ ~~as requested by the executive~~
 71 ~~secretary~~].

72 (e) Notwithstanding Subsection (1), at the request of any person the commission shall
 73 provide that person § SALES AND PURCHASE VOLUME § data reported to the commission on a
 73a report, return, or other information filed
 74 with the commission under:

75 (i) Chapter 13, Part 2, Motor Fuel; or

76 (ii) Chapter 13, Part 4, Aviation Fuel.

77 ~~[(e)]~~ (f) Notwithstanding Subsection (1), upon request from a tobacco product
 78 manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

79 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
 80 manufacturer and reported to the commission for the previous calendar year under Section
 81 59-14-407; and

82 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
 83 manufacturer for which a tax refund was granted during the previous calendar year under Section
 84 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

85 ~~[(f)]~~ (g) Notwithstanding Subsection (1), the commission may:

86 (i) provide to the Division of Consumer Protection within the Department of Commerce
 87 and the attorney general data:

88 (A) reported to the commission under Section 59-14-212; or

89 (B) related to a violation under Section 59-14-211; and

90 (ii) upon request provide to any person data reported to the commission under Subsections
91 59-14-212(1)(a) through (1)(c) and Subsection 59-14-212(1)(g).

92 (4) (a) Reports and returns shall be preserved for at least three years [~~and then~~].

93 (b) After the three-year period provided in Subsection (4)(a) the commission may destroy
94 [~~them~~] a report or return.

95 (5) (a) Any person who violates this section is guilty of a class A misdemeanor.

96 (b) If the [~~offender~~] person described in Subsection (5)(a) is an officer or employee of the
97 state, [~~he~~] the person shall be dismissed from office and be disqualified from holding public office
98 in this state for a period of five years thereafter.

99 (6) This part does not apply to the property tax.

100 Section 2. Section **59-14-212** is amended to read:

101 **59-14-212. Reporting of imported cigarettes -- Penalty.**

102 (1) Except as provided under Subsection (2), any manufacturer, distributor, wholesaler,
103 or retail dealer who under Section 59-14-205 affixes a stamp to an individual package or container
104 of cigarettes imported to the United States shall provide to the commission the following as they
105 pertain to the imported cigarettes:

106 (a) a copy of the importer's federal import permit;

107 (b) the customs form showing the tax information required by federal law;

108 (c) a statement signed under penalty of perjury by the manufacturer or importer that the
109 manufacturer or importer has complied with:

110 (i) 15 U.S.C. 1333 of the Federal Cigarette Labeling and Advertising Act, regarding
111 warning labels and other package information; and

112 (ii) 15 U.S.C. 1335a of the Federal Cigarette Labeling and Advertising Act, regarding
113 reporting of added ingredients;

114 (d) the name of the person from whom the person affixing the stamp received the
115 cigarettes;

116 (e) the name of the person to whom the person affixing the stamp delivered the cigarettes,
117 unless the person receiving the cigarettes was the ultimate consumer;

118 (f) the quantity of cigarettes in the package or container; and

119 (g) the brand and brand style of the cigarettes.

120 (2) Subsection (1) does not apply to cigarettes sold or intended to be sold as duty-free

121 merchandise by a duty-free sales enterprise in accordance with the provisions of 19 U.S.C. 1555(b)
122 and any implementing regulations unless the cigarettes are brought back into the customs territory
123 for resale within the customs territory.

124 (3) The information under Subsection (1) shall be provided on a quarterly basis pursuant
125 to rules established by the commission in accordance with Title 63, Chapter 46a, Utah
126 Administrative Rulemaking Act.

127 (4) A person who fails to comply with the reporting requirement or provides false or
128 misleading information under Subsection (1):

129 (a) is guilty of a class B misdemeanor; and

130 (b) may be subject to:

131 (i) revocation or suspension of a license issued under Section 59-14-202; and

132 (ii) a civil penalty imposed by the commission in an amount not to exceed the greater of:

133 (A) 500% of the retail value of the cigarettes for which a report was not properly made;

134 or

135 (B) \$5,000.

136 (5) The information under Subsection (1) may be disclosed by the commission as provided
137 under Subsection 59-1-403(3)[~~(f)~~](g).

Legislative Review Note

as of 2-5-01 7:00 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel