

# State of Wisconsin



2023 Senate Bill 616

Date of enactment:  
Date of publication\*:

## 2023 WISCONSIN ACT

AN ACT *to repeal* 125.22 (2) (a) 1. and 565.32 (3) (a) 2. c.; *to renumber and amend* 71.05 (6) (b) 25.; *to amend* 25.69, 71.05 (1) (i), 71.05 (25m) (c), 71.26 (1) (i), 71.26 (3) (vm) 2., 71.34 (1k) (p) 2., 71.45 (2) (a) 21. b., 71.64 (6) (b), 71.775 (3) (a) 2., 125.12 (5) (a), 125.22 (2) (a) 2. and 5. and (3) (b), 229.42 (7) (b) 1m., 565.30 (3) (a) 1., 995.15 (6) and 995.15 (9) (a) and (b); *to create* 20.566 (1) (v), 20.566 (2) (s), 71.05 (6) (b) 25. a. and b., 71.365 (4m) (d) 1. bd., 77.54 (71) and 565.30 (3) (a) 3. of the statutes; and *to affect* 2023 Wisconsin Act 73, section 65 (3m); **relating to:** a sales tax exemption for road-building equipment; increasing the income tax withholding threshold for nonresidents; modifying the certification requirement for a qualified opportunity fund; prohibiting certain lottery games; extending the capital gains exclusion to family members who inherit certain farms organized as a partnership or limited liability company; length of service for certain local exposition district board members; common carriers involved in direct wine shipping; authorizing shared revenue and municipality sales and use tax positions; the income tax exemption for income from certain commercial loans; authorizing cigarette, tobacco, and vapor product enforcement positions; correcting a cross-reference; and making an appropriation.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1b.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

			2023–24	2024–25
<b>20.566 Revenue, department of</b>				
(1) COLLECTION OF TAXES				
(v) Cigarette, tobacco, and vapor product enforcement	SEG	A	201,100	643,100
(2) STATE AND LOCAL FINANCE				
(s) Shared revenue and innovation grant administration	SEG	A	–0–	409,700

**SECTION 1c.** 20.566 (1) (v) of the statutes is created to read:

20.566 (1) (v) *Cigarette, tobacco, and vapor product enforcement.* From the permanent endowment fund, the

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

amounts in the schedule for special agent positions related to cigarette, tobacco, and vapor product enforcement.

**SECTION 1cm.** 20.566 (2) (s) of the statutes is created to read:

20.566 (2) (s) *Shared revenue and innovation grant administration.* From the local government fund, the amounts in the schedule to administer the distributions under ss. 79.036 and 79.037 and the grants under s. 79.038.

**SECTION 1d.** 25.69 of the statutes is amended to read:

**25.69 Permanent endowment fund.** There is established a separate nonlapsible trust fund designated as the permanent endowment fund, consisting of all of the proceeds from the sale of the state's right to receive payments under the Attorneys General Master Tobacco Settlement Agreement of November 23, 1998, and all investment earnings on the proceeds. Any revenues or proceeds that are derived from the repurchase by the state of the tobacco settlement revenues under s. 16.527 (3) (c) 1. are also deposited into the permanent endowment fund. Beginning in the 2021–22 fiscal year, there is transferred from the permanent endowment fund to the Medical Assistance trust fund all of the moneys deposited into the permanent endowment fund in each fiscal year, except that beginning in the 2023–24 fiscal year, the amount of the transfer is reduced by the amount appropriated under s. 20.566 (1) (v) for that fiscal year.

**SECTION 1e.** 71.05 (1) (i) of the statutes, as created by 2023 Wisconsin Act 19, is amended to read:

71.05 (1) (i) *Commercial loans.* Income from of a tax-option corporation that is a financial institution, as defined in s. 69.30 (1) (b), including interest, fees, and penalties, derived from a commercial loan of five million dollars or less provided to a person residing or located in this state and used primarily for a business or agricultural purpose in this state.

**SECTION 1m.** 71.05 (6) (b) 25. of the statutes is renumbered 71.05 (6) (b) 25. (intro.) and amended to read:

71.05 (6) (b) 25. (intro.) All gains that are not excluded from taxation under subd. 9., on business assets or on assets used in farming, ~~including shares in a corporation or trust that meets the standards under s. 182.001 (1), or both, held more than one year, that are sold or otherwise disposed of to persons who are related to the seller or transferor by blood, marriage or adoption within the 3rd degree of kinship as determined under s. 990.001 (16), as computed under the Internal Revenue Code, not including amounts treated as ordinary income for federal income tax purposes because of the recapture of depreciation or any other reason.~~ For purposes of this subdivision, "assets used in farming" includes any of the following:

**SECTION 2.** 71.05 (6) (b) 25. a. and b. of the statutes are created to read:

71.05 (6) (b) 25. a. Shares in a corporation or beneficial interest in a trust that meets the standards under s. 182.001 (1).

b. Ownership interest in a partnership or limited liability company treated as a partnership under this chapter, if the partnership or limited liability company has 15 or fewer partners or members and all partners or members are natural persons.

**SECTION 3.** 71.05 (25m) (c) of the statutes is amended to read:

71.05 (25m) (c) ~~No later than January 31 of the year following the close of the fund's taxable year~~ In the form and manner prescribed by the department, a fund shall annually certify to each investor and the department that it qualifies as a Wisconsin qualified opportunity fund for the fund's taxable year. A fund shall make the annual certifications under this paragraph no later than the due date, including extensions, of the fund's corresponding income or franchise tax return under this chapter.

**SECTION 3m.** 71.26 (1) (i) of the statutes, as created by 2023 Wisconsin Act 19, is amended to read:

71.26 (1) (i) *Commercial loans.* Income of a financial institution, as defined in s. 69.30 (1) (b), including interest, fees, and penalties, derived from a commercial loan of five million dollars or less provided to a person residing or located in this state and used primarily for a business or agricultural purpose in this state.

**SECTION 4.** 71.26 (3) (vm) 2. of the statutes is amended to read:

71.26 (3) (vm) 2. ~~No later than January 31 of the year following the close of the fund's taxable year~~ In the form and manner prescribed by the department, a fund shall annually certify to each investor and the department that it qualifies as a Wisconsin qualified opportunity fund for the fund's taxable year. A fund shall make the annual certifications under this subdivision no later than the due date, including extensions, of the fund's corresponding income or franchise tax return under this chapter.

**SECTION 5.** 71.34 (1k) (p) 2. of the statutes is amended to read:

71.34 (1k) (p) 2. ~~No later than January 31 of the year following the close of the fund's taxable year~~ In the form and manner prescribed by the department, a fund shall annually certify to each investor and the department of revenue that it qualifies as a Wisconsin qualified opportunity fund for the fund's taxable year. A fund shall make the annual certifications under this subdivision no later than the due date, including extensions, of the fund's corresponding income or franchise tax return under this chapter.

**SECTION 5m.** 71.365 (4m) (d) 1. bd. of the statutes is created to read:

71.365 (4m) (d) 1. bd. For taxable years beginning after December 31, 2022, the income exclusion under s. 71.05 (1) (i) shall be allowed.

**SECTION 6.** 71.45 (2) (a) 21. b. of the statutes is amended to read:

71.45 (2) (a) 21. b. ~~No later than January 31 of the year following the close of the fund's taxable year~~ In the form and manner prescribed by the department, a fund shall annually certify to each investor and the department that it qualifies as a Wisconsin qualified opportunity fund for the fund's taxable year. A fund shall make the annual certifications under this subd. 21. b. no later than the due date, including extensions, of the fund's corresponding income or franchise tax return under this chapter.

**SECTION 7.** 71.64 (6) (b) of the statutes is amended to read:

71.64 (6) (b) No amount shall be withheld from the wages paid to a nonresident employee for services performed in this state if the employer reasonably estimates that during that calendar year the employee will earn less than \$1,500 ~~\$2,000~~; but whenever it appears that the employee will earn more than \$1,500 ~~\$2,000~~ in this state during the calendar year, the employer shall withhold, from wages paid thereafter, such additional amounts as the employer reasonably estimates will be required to offset the amounts not withheld from previous payments.

**SECTION 8.** 71.775 (3) (a) 2. of the statutes is amended to read:

71.775 (3) (a) 2. The partner's, member's, shareholder's, or beneficiary's share of income from the pass-through entity that is attributable to this state is less than \$1,000 ~~\$2,000~~.

**SECTION 9.** 77.54 (71) of the statutes is created to read:

77.54 (71) The sales price from the sale of and the storage, use, or other consumption of portable machinery and equipment, including accessories, attachments, parts, and supplies for such machinery and equipment, used primarily to crush, mill, produce, or pulverize asphalt, concrete, gravel, rock, or aggregate base for road or commercial surface lot construction or resurfacing.

**SECTION 9d.** 125.12 (5) (a) of the statutes, as affected by 2023 Wisconsin Act 73, section 25L, is amended to read:

125.12 (5) (a) The division may, after notice and an opportunity for hearing, revoke, suspend, or refuse to renew any retail permit issued by it for the causes provided in sub. (4) and any other permit issued by it under this chapter for any violation of this chapter or ch. 139, except that, for a violation of s. 125.535 or 139.035, the division shall revoke the permit, and the division shall revoke ~~a common carrier permit as provided in s. 125.22 (3) (b) and a fulfillment house permit as provided in s. 125.23 (6) (b) and may revoke a common carrier permit as provided in s. 125.22 (3) (b).~~

**SECTION 9f.** 125.22 (2) (a) 1. of the statutes, as created by 2023 Wisconsin Act 73, is repealed.

**SECTION 9g.** 125.22 (2) (a) 2. and 5. and (3) (b) of the statutes, as created by 2023 Wisconsin Act 73, are amended to read:

125.22 (2) (a) 2. The name and address of the consignor of the shipment, ~~if different from the person that manufactured the alcohol beverages.~~

5. The ~~type and quantity~~ weight of the alcohol beverages shipped to the consignee, as reported to the common carrier by the consignor.

(3) (b) Any common carrier that ships alcohol beverages other than wine obtained from a direct wine shipper permittee under s. 125.535 or from a fulfillment house permittee under s. 125.23 is may be subject to a forfeiture of not more than \$2,000. ~~The~~ When the division determines that a common carrier has engaged in repeated and negligent transportation and shipping practices involving alcohol beverages, the division shall may revoke the permit of any common carrier that violates this prohibition in more than one month during a calendar year. Except as provided in this paragraph, s. 125.12 (5) shall apply with respect to the division's revocation of the permit.

**SECTION 9m.** 229.42 (7) (b) 1m. of the statutes is amended to read:

229.42 (7) (b) 1m. Subject to subds. 2. and 3. and sub. (4) (g), the terms of office of the members of the board of directors shall be 3 years, except that for the initial appointments that occur following the secretary of administration issuing the certification described in sub. (4e) (d), 3 of the appointments shall be for one year, 3 appointments shall be for 2 years, and 3 appointments shall be for 3 years. The comptroller's appointments shall be for the comptroller's tenure in his or her position. The term of the secretary of administration or his or her designee shall be concurrent with the secretary's term in office, and the terms of the persons described in sub. (4) (f) shall be their terms in office or the term of the person who designated the board members under sub. (4) (f). The length of the initial terms shall be determined jointly by the secretary of administration and the county executive of the most populous county in which the sponsoring municipality is located. With regard to appointed board members to whom this subdivision applies, no individual may serve on the board of directors for more than ~~6~~ 9 years.

**SECTION 10.** 565.30 (3) (a) 1. of the statutes is amended to read:

565.30 (3) (a) 1. Except as provided in ~~subd. subds. 2. and 3.~~, the holder of a winning lottery ticket or lottery share may claim a prize within 180 days after the drawing or other selection in which the prize is won.

**SECTION 11.** 565.30 (3) (a) 3. of the statutes is created to read:

565.30 (3) (a) 3. As determined by the administrator, multijurisdictional lottery secondary or subsequent chance drawings or games may have a shorter claim period for holders of a winning lottery ticket or lottery share, which shall be prescribed in the features and procedures for the secondary or subsequent chance drawing or game.

**SECTION 12.** 565.32 (3) (a) 2. c. of the statutes is repealed.

**SECTION 12d.** 995.15 (6) of the statutes, as created by 2023 Wisconsin Act 73, is amended to read:

995.15 (6) Beginning ~~March~~ September 1, 2025, the department shall maintain and make publicly available on its website a directory that lists all electronic vaping device manufacturers and electronic vaping devices for which certification forms have been submitted and shall update the directory at least monthly to ensure accuracy.

**SECTION 12e.** 995.15 (9) (a) and (b) of the statutes, as created by 2023 Wisconsin Act 73, are amended to read:

995.15 (9) (a) Beginning ~~March~~ September 1, 2025, or on the date that the department first makes the directory maintained under sub. (6) available for public inspection on its website, whichever is later, the department shall impose on each retailer who sells or offers for sale an electronic vaping device in this state that is not included in the directory a forfeiture of \$1,000 per day for each electronic vaping device offered for sale in violation of this section until each such device is no longer offered for sale in this state or until each such device is properly listed on the directory pursuant to this section.

(b) Beginning ~~March~~ September 1, 2025, or on the date that the department first makes the directory maintained under sub. (6) available for public inspection on its website, whichever is later, the department shall impose on each manufacturer of an electronic vaping device that is sold in this state, but not included in the directory a forfeiture of \$1,000 per day for each electronic vaping device offered for sale in violation of this section until each such device is no longer offered for sale in this state or until each such device is properly listed on the directory pursuant to this section.

**SECTION 12m.** 2023 Wisconsin Act 73, section 65 (3m) is amended by replacing “SECTION 64c” with “SECTION 64c (5m)”.

**SECTION 12n. Nonstatutory provisions.**

(1) CIGARETTE, TOBACCO, AND VAPOR PRODUCT SPECIAL AGENTS. The authorized FTE positions for the department of revenue are increased by 4.0 SEG positions on April 1, 2024, to be funded from the appropriation under s. 20.566 (1) (v), for the purpose of cigarette, tobacco, and vapor product enforcement.

(2) POSITION AUTHORIZATION; MUNICIPALITY SALES AND USE TAX. The authorized FTE positions for the department of revenue are increased by 1.0 PR position, to be funded from the appropriation under s. 20.566 (1) (gi), for the purpose of administering the municipality taxes imposed under s. 77.701.

(3) POSITION AUTHORIZATION; SHARED REVENUE AND INNOVATION GRANTS. The authorized FTE positions for the department of revenue are increased by 4.0 SEG project positions on July 1, 2024, to be funded from the appropriation under s. 20.566 (2) (s), to administer the distributions under ss. 79.036 and 79.037 and the grants under s. 79.038. On July 1, 2024, all incumbent employees holding the project positions authorized under SECTION 12r (1) of this act as of June 30, 2024, shall hold the project positions authorized under this subsection.

**SECTION 12r. Fiscal changes.**

(1) ADMINISTRATION OF SHARED REVENUE AND INNOVATION GRANTS. In the schedule under s. 20.005 (3) for the appropriation to the department of revenue under s. 20.566 (2) (a), the dollar amount for fiscal year 2023–24 is increased by \$125,600 to increase the authorized FTE positions for the department by 4.0 GPR project positions for the period ending on June 30, 2024, to administer the distributions under ss. 79.036 and 79.037 and the grants under s. 79.038.

**SECTION 13. Initial applicability.**

(1) The treatment of ss. 71.05 (25m) (c), 71.26 (3) (vm) 2., 71.34 (1k) (p) 2., 71.45 (2) (a) 21. b., 71.64 (6) (b), and 71.775 (3) (a) 2., the renumbering and amendment of s. 71.05 (6) (b) 25., and the creation of s. 71.05 (6) (b) 25. a. and b. first apply to taxable years beginning on January 1, 2024.

**SECTION 14. Effective dates.** This act takes effect on the day after publication, except as follows:

(1) The treatment of s. 77.54 (71) takes effect on the first day of the 3rd month beginning after publication.

(2m) The treatment of ss. 125.12 (5) (a) and 125.22 (2) (a) 1., 2., and 5. and (3) (b) takes effect on January 1, 2025.