

Accompanying the first recommendation of the Department of Revenue (House, No. 238). Taxation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty.

AN ACT TO INSURE THE COLLECTION OF SALES TAXES AT TRANSIENT LOCATIONS WITHIN THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 62C of the General Laws is
2 hereby amended by adding at the end thereof the following para-
3 graph:—

4 “Promoter”, a person who, either directly or indirectly, rents,
5 leases or grants a license to use space to any person for the display
6 for sale or for the sale of tangible personal property subject to tax
7 under chapter sixty-four H, at more than three shows during the
8 calendar year, or who operates more than three shows during the
9 calendar year. For purposes of determining whether three shows
10 have been held, the conduct of an activity described in the defini-
11 tion of “show” hereinafter listed on one day alone or on a series of
12 up to seven consecutive days shall be deemed to constitute a single
13 show.

14 “Show”, a flea market, craft show, antique show, coin show,
15 stamp show, comic book show fair and any similar show, whether
16 held regularly or of a temporary nature at which more than one
17 vendor displays for sale or sells tangible personal property subject
18 to tax.

1 SECTION 2. Said chapter 62C is hereby further amended by
2 inserting, after section 8, the following section:—

3 *Section 8A.* Every promoter shall file with the commissioner a
4 report for each calendar month for all shows held within the
5 commonwealth with respect to which he was a promoter, listing the

6 date and place of each show and the name, address and vendor
7 registration number, by show, of every person whom he permitted
8 to display for sale or to sell tangible personal property subject to
9 tax under chapter sixty-four H at such show. Such report shall be
10 filed within twenty days after the end of such calendar month.
11 Every person shall furnish the promoter of any show at which he
12 displays for sale or sells tangible personal property subject to tax
13 under chapter sixty-four H with a statement of his name, address
14 and vendor registration number for the promoter's use in filing the
15 report required herein.

16 Every promoter shall keep a record of the date and place of each
17 show and the name, address and vendor registration number of
18 every person whom he permits to display for sale or to sell tangible
19 personal property subject to tax under chapter sixty-four H at such
20 show. Such records shall be open to inspection and examination at
21 any reasonable time by the commissioner or his duly authorized
22 representative and such records shall, unless the commissioner
23 consents in writing to an earlier destruction, be preserved for three
24 years after the date the report was filed or the date it was due,
25 whichever occurs later, except that the commissioner may by
regulation require that they be kept longer. Such records may be
kept within the meaning of this section when reproduced on any
photographic, microfilm or other process which actually reproduces
the original record.

1 SECTION 3. Said chapter 62C is hereby further amended by
2 inserting after section 67 the following section:—

3 *Section 67A.* (a) Every promoter of a show within the common-
4 wealth shall, at least ten days prior to the opening of such show, file
5 with the commissioner, in such form as he may prescribe, a notice
6 stating the location and dates of such show.

7 (b) The commissioner shall, within five days after the receipt of
8 any such notice, issue to the promoter, without charge, a registra-
9 tion to operate such show, except as hereinafter provided. No
10 promoter shall rent, lease or grant a license to use space for a show
11 or operate a show without obtaining such registration. Such regis-
12 tration shall be prominently displayed at the main entrance to the
13 show. However, if a notice required under this section has been
14 properly filed, and if a registration has not been received by the
15 promoter prior to the opening of the show, the requirements

16 contained in this section with respect to obtaining and displaying
17 such a registration shall be deemed to have been complied with,
18 unless and until the promoter receives a notice from the commis-
19 sioner, sent by certified mail, denying the application for a registra-
20 tion based on the existence of any order previously issued hereun-
21 der and in effect as of the date of issuance of such notice denying the
22 application. An applicant shall have a right to a hearing before the
23 commissioner to contest such a notice of denial. If a registration is
24 received after a show has commenced but before it has been
25 terminated, the promoter must commence to display such registra-
26 tion as herein provided.

27 (c) Any promoter who is a vendor under chapter sixty-four H
28 shall comply with all the provisions of said chapter sixty-four H
29 applicable to vendors as well as with all of the provisions of this
30 chapter relating to promoters.

31 (d) A promoter shall not permit any person to display for sale or
32 to sell tangible personal property subject to tax under chapter
33 sixty-four H at a show unless such person is registered under
34 section sixty-seven as a vendor and displays his certificate of
35 registration in accordance with the provisions of said section.

36 (e) Any promoter who fails to file a notice of a show, operates a
37 show without a registration, fails to file a report of a show, files a
38 report which is wilfully false, or fails to comply with any provision
39 contained in this chapter or any regulation promulgated by the
40 commissioner pertaining to shows shall, after an opportunity for a
41 hearing has been afforded, be subject to the revocation of all
42 existing registrations issued, pursuant to this section, to operate a
43 show. The commissioner may, after an opportunity for a hearing
44 has been afforded, also issue an order denying such promoter a
45 registration to operate a show for a period of not more than six
46 months from the date of such order. Such penalty shall be in
47 addition to any other penalty imposed by this chapter.

1 SECTION 4. Section 34 of said chapter 62C, as appearing in
2 section 22 of chapter 415 of the acts of 1976, is hereby amended by
3 inserting after the second sentence the following sentence:—

4 If any promoter required to file a report under section eight A
5 fails to file the report within the time therein prescribed, he shall
6 become liable to a penalty of five dollars for each day during which
7 he is in default.

1 SECTION 5. Section 76 of said chapter 62C, as appearing in
2 section 22 of chapter 415 of the acts of 1976, is hereby amended by
3 inserting, after the word “sixty-seven” the following words:—or
4 sixty-seven A.

1 SECTION 6. This act shall apply to all shows commencing on or
2 after its effective date as well as to shows commencing prior to said
3 date and continuing in operation on or after said date.