

November 14, 2023

*Testimony on Assembly Bill 273*

Good Morning, Chairman Swearingen and members of the Assembly Committee on State Affairs, and thank you for allowing me to testify on Assembly Bill 273. The bill makes changes regarding the Department of Revenue's (DOR) enforcement authority.

This bill, identical to last session's version that passed the Assembly on a voice vote, was crafted in coordination with, and at the request of, DOR to assist them in licensing, regulation, and enforcement of tobacco, alcohol, and the lottery. It breaks down into four main areas: cigarettes and tobacco products, alcohol, the lottery, and taxes.

Cigarettes and Tobacco

Assembly Bill 273 creates a comprehensive definition of electronic vaping devices so retailers know exactly when a license is required for the retail sale of such products. The bill also includes electronic vaping devices into the existing municipal license structure for tobacco products. Additionally, the bill updates and increases penalties associated with unlawful possession of cigarettes and excise tax evasion. The final change relating to tobacco and cigarettes is to include tobacco tax evasion and possession of illegal cigarettes under the definition of racketeering.

Alcohol

Assembly Bill 273 clarifies alcohol law by reiterating that alcohol mist/vapor devices are illegal to use, sell, and possess. The bill also revises the statutory definition of "fermented malt beverage" to fix a hard seltzer taxation issue. Additionally, it creates a statewide, public facing database of local alcohol licenses. Finally, the bill makes administrative changes to allow DOR to pass the \$7 background check fee on to applicants for all state-issued alcohol beverage permits, and prescribes a 6 month length of time for an applicant to re-apply for an alcohol beverage permit if DOR revoked a previous one.

## The Lottery

Assembly Bill 273 clarifies that lottery investigators may purchase lottery tickets as a part of an official lottery investigation or compliance check in accordance with their official duties. The bill also extends Lottery Chapter 565 enforcement authority to special agents at DOR. Additionally, it adds clarifying language to encourage consistent interpretation from jurisdiction to jurisdiction in specific lottery offenses.

## Taxes

The bill creates penalties for the use of “zappers” (software-based devices to evade sales tax). It also clarifies that DOR and Department of Justice employees may, in connection with their official duties, disclose information from a tax return such that it is necessary for the enforcement of WI tax laws and upon request from a state or federal grand jury subpoena.

As previously mentioned, the bill is substantially similar to last session, and the version before you today is the same bill that passed the Assembly on a voice vote last session. As a reminder, the two changes that have been made since this committee last heard this bill are 1) the elimination of the provisions increasing the age for holding a license to sell tobacco products to 21, and 2) an expansion of the definition of sales suppression/sales tax avoidance software to include “cloud-based” software.

As you can see, there are many components to this bill, but in sum, the bill will assist DOR license, regulate, and enhance enforcement of alcohol, tobacco, and The Lottery. It has been a pleasure working with the department to craft this bi-partisan bill.

Again, thank you for allowing me the opportunity testify in support of Assembly Bill 273 and I look forward to answering any questions you may have.



Tony Evers  
Governor

Peter W. Barca  
Secretary of Revenue

**Testimony on AB 273 – The Public Safety and Revenue Enhancement Bill**  
**Department of Revenue Secretary Peter Barca**  
November 14, 2023

Thank you, Chairman Swearingen, Vice-Chair Green, Ranking Member Sinicki, and members of the Assembly Committee on State Affairs for hosting a public hearing on AB 273. I would also like to thank Representatives Spiros and Drake, and Senators Wanggaard and Taylor, for their unwavering support of this important legislation.

I am testifying in support of AB 273, the Public Safety and Revenue Enhancement Package. AB 273 includes a series of changes recommended by the Department of Revenue to **strengthen administration of state tax laws and modernize state statutes to keep up with new and sometimes dangerous products in an evolving marketplace.**

For example, the bill creates penalties for the use or possession of “Zappers” that enable retailers to fraudulently underreport income, sales, and excise taxes, and for the use, possession, or sale of dangerous alcohol vapor machines that turn alcohol into a mist that is inhaled by the user. The bill also creates a long-overdue definition of vapor products and treats them the same as other tobacco products for purposes of permitting and licensure. SB 268 also updates the definition of fermented malt beverage to include hard seltzers to mirror the federal definition.

**The bill improves administration of alcohol and tobacco regulation in several ways.** First, the Department seeks to improve public access to local alcohol and cigarette/tobacco retail licenses through the creation of databases that are easily accessible on the DOR website. Second, the legislation creates consistency in cigarette/tobacco retail licenses by developing minimum qualifications and a uniform DOR application for these licenses. Lastly, AB 273 requires a six-month waiting period before alcohol permit applicants can reapply for a state permit that has been denied or revoked. There is currently no waiting period for unqualified applicants to reapply, creating a revolving door that costs valuable staff time and money.

**DOR is also seeking to improve the security and integrity of the Wisconsin Lottery for both players and retailers.** First, the bill would make it a Class I felony to counterfeit or illegally obtain a lottery ticket or transfer a winning ticket to another person. Second, the bill provides Lottery investigators with authority to prevent and enforce violations of Lottery laws. This will lessen pressure on local law enforcement officers and allow them to concentrate on higher priority cases. For example, the Milwaukee Police Department had to assign five officers to a CVS in Milwaukee that had seven separate incidents of Lottery ticket thefts. If Wisconsin sworn Lottery investigators had the authority to intervene, they could have freed up five MPD officers to focus on more significant crimes.

The Department also worked in tandem with Senator Wanggaard and Representative Spiros on an amendment to address the dangerous vaping epidemic by requiring DOR to **create an e-vapor registry of allowable vaping manufacturers and products.** The amendment significantly limits the number of vaping products on the market by setting criteria for inclusion

in the registry. The amendment empowers DOR to improve public safety by creating guidelines for businesses and consumers alike in the exploding vaping industry.

It is our understanding that Sen. Wanggaard is building support for the approval of 4.0 tobacco agents for the enforcement of the vaping registry and other tobacco regulations. This will be especially critical if comprehensive alcohol legislation currently under consideration passed, as it moves current alcohol and tobacco enforcement agents to the new Division of Alcohol Beverages, leaving virtually none in DOR for tobacco enforcement.

Again, thank you for working cooperatively with DOR to protect our citizens and remain good shepherds of their tax dollars. I urge you to support this bill.

I would welcome your questions or comments.