

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 528 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 4-31-8-7 IS ADDED TO THE INDIANA CODE
- 4 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 5 1, 2013]: **Sec. 7. A person may not acquire a horse in a claiming**
- 6 **transaction (as defined in IC 6-2.5-14-3) unless the person has on**
- 7 **deposit with the permit holder:**
- 8 **(1) the amount required to make the claiming transaction**
- 9 **under the rules of the commission; and**
- 10 **(2) an amount sufficient to pay the use tax imposed on the**
- 11 **claiming transaction under IC 6-2.5-14."**
- 12 Page 29, between lines 13 and 14, begin a new paragraph and insert:
- 13 "SECTION 27. IC 6-2.5-3-3 IS AMENDED TO READ AS
- 14 FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 3. Except as provided**
- 15 **in IC 6-2.5-14**, the use tax is measured by the gross retail income
- 16 received in a retail unitary transaction and is imposed at the same rates
- 17 as the state gross retail tax under IC 6-2.5-2-2. For purposes of this
- 18 chapter, transactions described in ~~IC 6-2.5-3-2(b) and (c)~~ **section 2(b)**
- 19 **and 2(c) of this chapter** shall be treated as retail transactions within
- 20 the meaning of IC 6-2.5-1-2.
- 21 SECTION 28. IC 6-2.5-6-7, AS AMENDED BY P.L.146-2008,
- 22 SECTION 311, IS AMENDED TO READ AS FOLLOWS
- 23 [EFFECTIVE JULY 1, 2013]: **Sec. 7. Except as otherwise provided in**
- 24 **IC 6-2.5-7, or in this chapter, or IC 6-2.5-14**, a retail merchant shall

1 pay to the department, for a particular reporting period, an amount
2 equal to the product of:

- 3 (1) seven percent (7%); multiplied by
- 4 (2) the retail merchant's total gross retail income from taxable
5 transactions made during the reporting period.

6 The amount determined under this section is the retail merchant's state
7 gross retail and use tax liability regardless of the amount of tax the
8 retail merchant actually collects.

9 SECTION 29. IC 6-2.5-14 IS ADDED TO THE INDIANA CODE
10 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2013]:

12 **Chapter 14. Collection and Remittance of Use Tax on Claimed**
13 **Race Horses**

14 **Sec. 1. (a) This chapter applies to a claiming transaction made**
15 **after June 30, 2013, at an Indiana race track.**

16 **(b) The department shall disregard any claiming transaction**
17 **occurring before July 1, 2013, when determining the use tax**
18 **liability under this chapter for a claiming transaction occurring**
19 **after June 30, 2013.**

20 **Sec. 2. As used in this chapter, "base price" refers to the price**
21 **paid to acquire a race horse in a claiming transaction that occurs:**

- 22 (1) after June 30, 2013; and
- 23 (2) immediately preceding the particular claiming transaction
24 for which the purchaser's use tax liability is being determined
25 under this chapter.

26 **Sec. 3. As used in this chapter, "claiming transaction" refers to**
27 **the sale and purchase of a race horse under the procedures set**
28 **forth in 71 IAC 6-1 or 71 IAC 6.5-1.**

29 **Sec. 4. As used in this chapter, "Indiana race track" refers to a**
30 **race track operated by a permit holder for the purpose of**
31 **conducting a pari-mutuel horse racing meeting under IC 4-31.**

32 **Sec. 5. As used in this chapter, "permit holder" has the meaning**
33 **set forth in IC 4-31-2-14.**

34 **Sec. 6. A person acquiring a race horse in a claiming transaction**
35 **at an Indiana race track is subject to the use tax imposed under**
36 **IC 6-2.5-3. However, the amount of the person's use tax liability is**
37 **determined under section 7 of this chapter.**

38 **Sec. 7. (a) The use tax imposed on the first claiming transaction**
39 **involving a particular race horse occurring after June 30, 2013, is**
40 **equal to the product of:**

- 41 (1) seven percent (7%); multiplied by
- 42 (2) the price paid to claim the race horse.

43 **(b) Except as provided in subsection (c), the use tax imposed on**
44 **each subsequent claiming transaction involving a race horse**
45 **previously claimed in a transaction described in subsection (a) is**
46 **equal to the product of:**

- 47 (1) seven percent (7%); multiplied by

1 (2) the remainder of:

2 (A) the price paid to claim the race horse; minus

3 (B) the base price of the race horse.

4 (c) If the price paid to claim a race horse does not exceed the
5 base price of the race horse, no use tax is imposed on the claiming
6 transaction.

7 **Sec. 8.** A person acquiring a race horse in a claiming transaction
8 shall pay the use tax liability, if any, incurred in the claiming
9 transaction to the permit holder operating the race track at which
10 the claiming transaction occurs. The person shall pay the use tax
11 from money placed on deposit with the permit holder. The tax
12 must be paid at the same time that the price of the claim is paid.

13 **Sec. 9.** The permit holder operating the race track at which the
14 claiming transaction occurs shall collect the use tax from each
15 person required to pay the use tax under section 8 of this chapter.

16 **Sec. 10.** A permit holder shall remit use taxes collected under
17 this chapter to the department in the manner required by
18 IC 6-2.5-6.

19 **Sec. 11. (a)** The department shall establish an amnesty program
20 for taxpayers having an unpaid use tax liability for a claiming
21 transaction occurring before June 1, 2012. This section does not
22 apply to a taxpayer's state gross retail or use tax liability from any
23 other type of transaction.

24 (b) The time in which a voluntary payment of tax liability may
25 be made (or the taxpayer may enter into a payment program
26 acceptable to the department for the payment of the unpaid use
27 taxes in full in the manner and time established in a written
28 payment program agreement between the department and the
29 taxpayer) under the amnesty program is limited to the period
30 ending before January 1, 2014.

31 (c) The amnesty program must require the following:

32 (1) That a taxpayer who enters into an agreement described
33 in subsection (b) is not eligible for any other amnesty program
34 that may be established.

35 (2) That the taxpayer shall comply with all other amnesty
36 conditions adopted under a rule of the department in effect on
37 the date the voluntary payment is made.

38 (d) Upon payment by a taxpayer to the department of all use
39 taxes due from the taxpayer for a tax period (or payment of the
40 unpaid use taxes in full in the manner and time established in a
41 written payment program agreement between the department and
42 the taxpayer), the department:

43 (1) shall abate and not seek to collect any interest, penalties,
44 collection fees, or costs that would otherwise be applicable;

45 (2) shall release any liens imposed;

46 (3) shall not seek civil or criminal prosecution against any
47 individual or entity; and

1 **(4) shall not issue, or, if issued, shall withdraw, an assessment,**
2 **a demand notice, or a warrant for payment under**
3 **IC 6-8.1-5-3, IC 6-8.1-8-2, or another law against any**
4 **individual or entity;**
5 **for use taxes due from the taxpayer for the tax period for which**
6 **amnesty has been granted to the taxpayer.**
7 **(e) Amnesty granted under this section is binding on the state**
8 **and its agents. However, failure to pay the department all use taxes**
9 **due for a tax period invalidates any amnesty granted under this**
10 **section for that tax period.**
11 **(f) The department shall enforce an agreement with a taxpayer**
12 **under this subsection that prohibits the taxpayer from receiving**
13 **amnesty in another amnesty program."**
14 Renumber all SECTIONS consecutively.
 (Reference is to ESB 528 as printed April 9, 2013.)

Representative Goodin