

"STORE AND THEATRE TAX ACT"
Act of Jun. 5, 1937, P.L. 1656, No. 344
AN ACT

Cl. 72

Imposing an annual license tax for the privilege of operating, maintaining or controlling within this Commonwealth a store or stores, theatre or theatres, as herein defined; prescribing the method and manner of collecting such tax and its disposition, including an appropriation for the purpose of administering this act; and providing penalties.

Be it enacted, &c., That,

TABLE OF CONTENTS

Section 1.	Short Title.
Section 2.	Definitions.
Section 3.	License.
Section 4.	Application for License.
Section 5.	License Taxes.
Section 6.	Ownership.
Section 7.	Penalty.
Section 8.	Examination of Records; Penalty.
Section 9.	Disposition of Tax and Fines.
Section 10.	License Tax in Addition to Existing Taxes.
Section 11.	Constitutionality.

Section 1. Short Title.--This act shall be known, and may be cited, as the "Store and Theatre Tax Act."

Section 2. Definitions.--The following words, terms, and phrases, when used in this act, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Association." A partnership, limited partnership, or any other form of unincorporated enterprise owned by two or more persons.

"Corporation." A corporation or joint-stock association organized under the laws of this Commonwealth, the United States, or any other state, territory, or foreign country, or dependency.

"Department." The Department of Revenue of this Commonwealth.

"Person." Every natural person, association, corporation, receiver or assignee.

"Store." Any place of business or any mercantile establishment in which, or from which, tangible personal property of any kind is sold: Provided, however, That the term "store," as and when used in this act, shall not include places of business commonly known as newsstands, and warehouses or establishments at which the sole business conducted is that of selling, storing or distributing commodities in bulk.

"Theatre." Any building or place for the production of theatrical entertainment, including opera, drama, comedy, vaudeville, motion pictures or other shows, or a combination thereof.

The singular shall include the plural, and the masculine shall include the feminine and neuter.

Section 3. License.--It shall be unlawful for any person to open, establish, operate, maintain or control any store or theatre in this Commonwealth without first having obtained and having in possession a valid license so to do from the department as hereinafter provided, but each person engaged in the operation, maintenance or control of such a store or theatre, on the effective date of this act, shall have sixty

(60) days within which to obtain the first license for each such store or theatre operated, maintained or controlled by him. A separate license shall be procured for each store or theatre. Licenses issued under this act may not be transferred or assigned. Each licensee shall display each license so issued in a conspicuous place in the store or theatre for which such license is issued. The licenses issued under the provisions of this act shall be annual licenses effective from June first of one year until and including May thirty-first of the year following. The first licenses shall be required for the year commencing June first, one thousand nine hundred and thirty-seven.

Section 4. Application for License.--Any person desiring to open, establish, operate, maintain or control such a store or theatre in this Commonwealth, shall apply to the department for a license so to do before the first day of June of each year, except as otherwise provided in section three hereof as to the first license. The application for license shall be made on a form prescribed and furnished by the department, and shall set forth the name of the person desiring such license, the name and location of the store or theatre for which the license is desired, and such other information as the department may require. Each such application shall be accompanied by the proper license tax as hereinafter prescribed in this act, and, upon receiving the prescribed fee, the department shall issue said license.

Section 5. License Taxes.--Every person opening, establishing, operating, maintaining or controlling one or more stores or theatres within this Commonwealth, under the same general management, supervision or ownership, shall pay an annual license tax for the privilege of opening, establishing, operating, maintaining or controlling such store or stores, or theatre or theatres as follows:

- (1) Upon one store or theatre, the sum of one dollar (\$1.00).
- (2) Upon each store or theatre in excess of one, but not to exceed five stores or theatres, the sum of five dollars (\$5.00) for each such additional store or theatre.
- (3) Upon each store or theatre in excess of five, but not to exceed ten stores or theatres, the sum of ten dollars (\$10.00) for each such additional store or theatre.
- (4) Upon each store or theatre in excess of ten, but not to exceed fifteen stores or theatres, the sum of twenty dollars (\$20.00) for each such additional store or theatre.
- (5) Upon each store or theatre in excess of fifteen, but not to exceed twenty stores or theatres, the sum of thirty dollars (\$30.00) for each such additional store or theatre.
- (6) Upon each store or theatre in excess of twenty, but not to exceed thirty stores or theatres, the sum of fifty dollars (\$50.00) for each such additional store or theatre.
- (7) Upon each store or theatre in excess of thirty, but not to exceed fifty stores or theatres, the sum of one hundred dollars (\$100.00) for each such additional store or theatre.
- (8) Upon each store or theatre in excess of fifty, but not to exceed seventy-five stores or theatres, the sum of two hundred dollars (\$200.00) for each such additional store or theatre.
- (9) Upon each store or theatre in excess of seventy-five, but not to exceed one hundred stores or theatres, the sum of two hundred and fifty dollars (\$250.00) for each such additional store or theatre.

(10) Upon each store or theatre in excess of one hundred, but not to exceed two hundred stores or theatres, the sum of three hundred and fifty dollars (\$350.00) for each such additional store or theatre.

(11) Upon each store or theatre in excess of two hundred, but not to exceed five hundred stores or theatres, the sum of four hundred and fifty dollars (\$450.00) for each such additional store or theatre.

(12) Upon each store or theatre in excess of five hundred stores or theatres, the sum of five hundred dollars (\$500.00) for each such additional store or theatre.

Section 6. Ownership.--Two or more stores or theatres shall, for the purpose of this act, be considered under the same general management, supervision or ownership if, directly or indirectly, controlled by a single person or any group of persons having a common interest in such stores or theatres, or if any part of the gross revenues, net revenues or profits from any such stores or theatres, shall, directly or indirectly, be required to be immediately or ultimately made available as rental or in any other manner whatsoever for the beneficial use, or shall, directly or indirectly, inure to the immediate or ultimate benefit of any single person or any group of persons having a common interest therein.

Section 7. Penalty.--Any person operating, maintaining or controlling a store or theatre without a license, as herein provided, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), and costs of prosecution. Each and every day that such violation shall continue shall constitute a separate and distinct offense.

Section 8. Examination of Records; Penalty.--The department, or any duly authorized agent thereof, shall have the power to examine the books, records, papers, and files, within or outside the Commonwealth, of any person operating, maintaining or controlling a store or theatre within this Commonwealth. It shall have the power to examine witnesses, under oath, to verify the accuracy of any application, or to ascertain whether or not any license tax is due which has not been paid. Any person refusing to allow an examination of his books, records, papers, and files as herein provided, or who refuses to furnish the department with any information requested, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), and costs of prosecution. Each such refusal shall be deemed a separate offense.

Section 9. Disposition of Tax and Fines.--All taxes and fines received, collected or recovered under this act, shall be paid into the State Treasury, through the department, and, except as hereinafter otherwise provided, shall be credited to the State School Fund: Provided, however, That out of the revenues derived under the provisions of this act, the Department of Revenue shall, during the fiscal biennium beginning the first day of June, one thousand nine hundred and thirty-seven, pay into the General Fund the sum of one hundred fifty-one thousand five hundred and seventeen dollars (\$151,517.00), and the said sum so paid into the General Fund is hereby appropriated to the Department of Revenue for the purpose of administering this act.

Section 10. License Tax in Addition to Existing Taxes.--The license tax imposed by this act shall be in addition to any taxes now imposed or that may subsequently be imposed by law.

Section 11. Constitutionality.--If any section, sentence, clause or part of this act is, for any reason, held to be unconstitutional, the decision of the court shall not affect or impair the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional section, sentence, clause, or part thereof, not been included therein.

Section 12. Effective Date.--This act shall become effective immediately upon final enactment.