

HB0098



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB0098

by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

35 ILCS 120/2-12

Amends the Retailers' Occupation Tax Act. Makes a technical change in a Section concerning the location where a retailer is deemed to be engaged in the business of selling.

LRB100 03950 HLH 13955 b

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Retailers' Occupation Tax Act is amended by
5 changing Section 2-12 as follows:

6 (35 ILCS 120/2-12)

7 Sec. 2-12. Location where retailer is deemed to be engaged
8 in the business of selling. The purpose of this Section is to
9 specify where a retailer is deemed to be engaged in the ~~the~~
10 business of selling tangible personal property for the purposes
11 of this Act, the Use Tax Act, the Service Use Tax Act, and the
12 Service Occupation Tax Act, and for the purpose of collecting
13 any other local retailers' occupation tax administered by the
14 Department. This Section applies only with respect to the
15 particular selling activities described in the following
16 paragraphs. The provisions of this Section are not intended to,
17 and shall not be interpreted to, affect where a retailer is
18 deemed to be engaged in the business of selling with respect to
19 any activity that is not specifically described in the
20 following paragraphs.

21 (1) If a purchaser who is present at the retailer's
22 place of business, having no prior commitment to the
23 retailer, agrees to purchase and makes payment for tangible

1 personal property at the retailer's place of business, then
2 the transaction shall be deemed an over-the-counter sale
3 occurring at the retailer's same place of business where
4 the purchaser was present and made payment for that
5 tangible personal property if the retailer regularly
6 stocks the purchased tangible personal property or similar
7 tangible personal property in the quantity, or similar
8 quantity, for sale at the retailer's same place of business
9 and then either (i) the purchaser takes possession of the
10 tangible personal property at the same place of business or
11 (ii) the retailer delivers or arranges for the tangible
12 personal property to be delivered to the purchaser.

13 (2) If a purchaser, having no prior commitment to the
14 retailer, agrees to purchase tangible personal property
15 and makes payment over the phone, in writing, or via the
16 Internet and takes possession of the tangible personal
17 property at the retailer's place of business, then the sale
18 shall be deemed to have occurred at the retailer's place of
19 business where the purchaser takes possession of the
20 property if the retailer regularly stocks the item or
21 similar items in the quantity, or similar quantities,
22 purchased by the purchaser.

23 (3) A retailer is deemed to be engaged in the business
24 of selling food, beverages, or other tangible personal
25 property through a vending machine at the location where
26 the vending machine is located at the time the sale is made

1 if (i) the vending machine is a device operated by coin,
2 currency, credit card, token, coupon or similar device; (2)
3 the food, beverage or other tangible personal property is
4 contained within the vending machine and dispensed from the
5 vending machine; and (3) the purchaser takes possession of
6 the purchased food, beverage or other tangible personal
7 property immediately.

8 (4) Minerals. A producer of coal or other mineral mined
9 in Illinois is deemed to be engaged in the business of
10 selling at the place where the coal or other mineral mined
11 in Illinois is extracted from the earth. With respect to
12 minerals (i) the term "extracted from the earth" means the
13 location at which the coal or other mineral is extracted
14 from the mouth of the mine, and (ii) a "mineral" includes
15 not only coal, but also oil, sand, stone taken from a
16 quarry, gravel and any other thing commonly regarded as a
17 mineral and extracted from the earth. This paragraph does
18 not apply to coal or another mineral when it is delivered
19 or shipped by the seller to the purchaser at a point
20 outside Illinois so that the sale is exempt under the
21 United States Constitution as a sale in interstate or
22 foreign commerce.

23 (5) A retailer selling tangible personal property to a
24 nominal lessee or bailee pursuant to a lease with a dollar
25 or other nominal option to purchase is engaged in the
26 business of selling at the location where the property is

1 first delivered to the lessee or bailee for its intended
2 use.

3 (Source: P.A. 98-1098, eff. 8-26-14; 99-126, eff. 7-23-15.)