

# HB5437



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB5437

by Rep. C.D. Davidsmeyer

#### SYNOPSIS AS INTRODUCED:

35 ILCS 120/3

from Ch. 120, par. 442

Amends the Retailers' Occupation Tax Act. Removes a requirement that a person who promotes, organizes, or provides retail selling space for concessionaires or other types of sellers at the Illinois State Fair, DuQuoin State Fair, county fairs, local fairs, art shows, flea markets and similar exhibitions or events must file a report with the Department providing certain information about the merchant's business. Effective immediately.

LRB098 18932 HLH 54079 b

FISCAL NOTE ACT  
MAY APPLY

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 3 as follows:

6 (35 ILCS 120/3) (from Ch. 120, par. 442)

7 Sec. 3. Except as provided in this Section, on or before  
8 the twentieth day of each calendar month, every person engaged  
9 in the business of selling tangible personal property at retail  
10 in this State during the preceding calendar month shall file a  
11 return with the Department, stating:

12 1. The name of the seller;

13 2. His residence address and the address of his  
14 principal place of business and the address of the  
15 principal place of business (if that is a different  
16 address) from which he engages in the business of selling  
17 tangible personal property at retail in this State;

18 3. Total amount of receipts received by him during the  
19 preceding calendar month or quarter, as the case may be,  
20 from sales of tangible personal property, and from services  
21 furnished, by him during such preceding calendar month or  
22 quarter;

23 4. Total amount received by him during the preceding

1 calendar month or quarter on charge and time sales of  
2 tangible personal property, and from services furnished,  
3 by him prior to the month or quarter for which the return  
4 is filed;

5 5. Deductions allowed by law;

6 6. Gross receipts which were received by him during the  
7 preceding calendar month or quarter and upon the basis of  
8 which the tax is imposed;

9 7. The amount of credit provided in Section 2d of this  
10 Act;

11 8. The amount of tax due;

12 9. The signature of the taxpayer; and

13 10. Such other reasonable information as the  
14 Department may require.

15 If a taxpayer fails to sign a return within 30 days after  
16 the proper notice and demand for signature by the Department,  
17 the return shall be considered valid and any amount shown to be  
18 due on the return shall be deemed assessed.

19 Each return shall be accompanied by the statement of  
20 prepaid tax issued pursuant to Section 2e for which credit is  
21 claimed.

22 Prior to October 1, 2003, and on and after September 1,  
23 2004 a retailer may accept a Manufacturer's Purchase Credit  
24 certification from a purchaser in satisfaction of Use Tax as  
25 provided in Section 3-85 of the Use Tax Act if the purchaser  
26 provides the appropriate documentation as required by Section

1 3-85 of the Use Tax Act. A Manufacturer's Purchase Credit  
2 certification, accepted by a retailer prior to October 1, 2003  
3 and on and after September 1, 2004 as provided in Section 3-85  
4 of the Use Tax Act, may be used by that retailer to satisfy  
5 Retailers' Occupation Tax liability in the amount claimed in  
6 the certification, not to exceed 6.25% of the receipts subject  
7 to tax from a qualifying purchase. A Manufacturer's Purchase  
8 Credit reported on any original or amended return filed under  
9 this Act after October 20, 2003 for reporting periods prior to  
10 September 1, 2004 shall be disallowed. Manufacturer's  
11 Purchaser Credit reported on annual returns due on or after  
12 January 1, 2005 will be disallowed for periods prior to  
13 September 1, 2004. No Manufacturer's Purchase Credit may be  
14 used after September 30, 2003 through August 31, 2004 to  
15 satisfy any tax liability imposed under this Act, including any  
16 audit liability.

17 The Department may require returns to be filed on a  
18 quarterly basis. If so required, a return for each calendar  
19 quarter shall be filed on or before the twentieth day of the  
20 calendar month following the end of such calendar quarter. The  
21 taxpayer shall also file a return with the Department for each  
22 of the first two months of each calendar quarter, on or before  
23 the twentieth day of the following calendar month, stating:

24 1. The name of the seller;

25 2. The address of the principal place of business from  
26 which he engages in the business of selling tangible

1 personal property at retail in this State;

2 3. The total amount of taxable receipts received by him  
3 during the preceding calendar month from sales of tangible  
4 personal property by him during such preceding calendar  
5 month, including receipts from charge and time sales, but  
6 less all deductions allowed by law;

7 4. The amount of credit provided in Section 2d of this  
8 Act;

9 5. The amount of tax due; and

10 6. Such other reasonable information as the Department  
11 may require.

12 Beginning on October 1, 2003, any person who is not a  
13 licensed distributor, importing distributor, or manufacturer,  
14 as defined in the Liquor Control Act of 1934, but is engaged in  
15 the business of selling, at retail, alcoholic liquor shall file  
16 a statement with the Department of Revenue, in a format and at  
17 a time prescribed by the Department, showing the total amount  
18 paid for alcoholic liquor purchased during the preceding month  
19 and such other information as is reasonably required by the  
20 Department. The Department may adopt rules to require that this  
21 statement be filed in an electronic or telephonic format. Such  
22 rules may provide for exceptions from the filing requirements  
23 of this paragraph. For the purposes of this paragraph, the term  
24 "alcoholic liquor" shall have the meaning prescribed in the  
25 Liquor Control Act of 1934.

26 Beginning on October 1, 2003, every distributor, importing

1 distributor, and manufacturer of alcoholic liquor as defined in  
2 the Liquor Control Act of 1934, shall file a statement with the  
3 Department of Revenue, no later than the 10th day of the month  
4 for the preceding month during which transactions occurred, by  
5 electronic means, showing the total amount of gross receipts  
6 from the sale of alcoholic liquor sold or distributed during  
7 the preceding month to purchasers; identifying the purchaser to  
8 whom it was sold or distributed; the purchaser's tax  
9 registration number; and such other information reasonably  
10 required by the Department. A distributor, importing  
11 distributor, or manufacturer of alcoholic liquor must  
12 personally deliver, mail, or provide by electronic means to  
13 each retailer listed on the monthly statement a report  
14 containing a cumulative total of that distributor's, importing  
15 distributor's, or manufacturer's total sales of alcoholic  
16 liquor to that retailer no later than the 10th day of the month  
17 for the preceding month during which the transaction occurred.  
18 The distributor, importing distributor, or manufacturer shall  
19 notify the retailer as to the method by which the distributor,  
20 importing distributor, or manufacturer will provide the sales  
21 information. If the retailer is unable to receive the sales  
22 information by electronic means, the distributor, importing  
23 distributor, or manufacturer shall furnish the sales  
24 information by personal delivery or by mail. For purposes of  
25 this paragraph, the term "electronic means" includes, but is  
26 not limited to, the use of a secure Internet website, e-mail,

1 or facsimile.

2 If a total amount of less than \$1 is payable, refundable or  
3 creditable, such amount shall be disregarded if it is less than  
4 50 cents and shall be increased to \$1 if it is 50 cents or more.

5 Beginning October 1, 1993, a taxpayer who has an average  
6 monthly tax liability of \$150,000 or more shall make all  
7 payments required by rules of the Department by electronic  
8 funds transfer. Beginning October 1, 1994, a taxpayer who has  
9 an average monthly tax liability of \$100,000 or more shall make  
10 all payments required by rules of the Department by electronic  
11 funds transfer. Beginning October 1, 1995, a taxpayer who has  
12 an average monthly tax liability of \$50,000 or more shall make  
13 all payments required by rules of the Department by electronic  
14 funds transfer. Beginning October 1, 2000, a taxpayer who has  
15 an annual tax liability of \$200,000 or more shall make all  
16 payments required by rules of the Department by electronic  
17 funds transfer. The term "annual tax liability" shall be the  
18 sum of the taxpayer's liabilities under this Act, and under all  
19 other State and local occupation and use tax laws administered  
20 by the Department, for the immediately preceding calendar year.  
21 The term "average monthly tax liability" shall be the sum of  
22 the taxpayer's liabilities under this Act, and under all other  
23 State and local occupation and use tax laws administered by the  
24 Department, for the immediately preceding calendar year  
25 divided by 12. Beginning on October 1, 2002, a taxpayer who has  
26 a tax liability in the amount set forth in subsection (b) of

1 Section 2505-210 of the Department of Revenue Law shall make  
2 all payments required by rules of the Department by electronic  
3 funds transfer.

4 Before August 1 of each year beginning in 1993, the  
5 Department shall notify all taxpayers required to make payments  
6 by electronic funds transfer. All taxpayers required to make  
7 payments by electronic funds transfer shall make those payments  
8 for a minimum of one year beginning on October 1.

9 Any taxpayer not required to make payments by electronic  
10 funds transfer may make payments by electronic funds transfer  
11 with the permission of the Department.

12 All taxpayers required to make payment by electronic funds  
13 transfer and any taxpayers authorized to voluntarily make  
14 payments by electronic funds transfer shall make those payments  
15 in the manner authorized by the Department.

16 The Department shall adopt such rules as are necessary to  
17 effectuate a program of electronic funds transfer and the  
18 requirements of this Section.

19 Any amount which is required to be shown or reported on any  
20 return or other document under this Act shall, if such amount  
21 is not a whole-dollar amount, be increased to the nearest  
22 whole-dollar amount in any case where the fractional part of a  
23 dollar is 50 cents or more, and decreased to the nearest  
24 whole-dollar amount where the fractional part of a dollar is  
25 less than 50 cents.

26 If the retailer is otherwise required to file a monthly



1 return and if the retailer's average monthly tax liability to  
2 the Department does not exceed \$200, the Department may  
3 authorize his returns to be filed on a quarter annual basis,  
4 with the return for January, February and March of a given year  
5 being due by April 20 of such year; with the return for April,  
6 May and June of a given year being due by July 20 of such year;  
7 with the return for July, August and September of a given year  
8 being due by October 20 of such year, and with the return for  
9 October, November and December of a given year being due by  
10 January 20 of the following year.

11 If the retailer is otherwise required to file a monthly or  
12 quarterly return and if the retailer's average monthly tax  
13 liability with the Department does not exceed \$50, the  
14 Department may authorize his returns to be filed on an annual  
15 basis, with the return for a given year being due by January 20  
16 of the following year.

17 Such quarter annual and annual returns, as to form and  
18 substance, shall be subject to the same requirements as monthly  
19 returns.

20 Notwithstanding any other provision in this Act concerning  
21 the time within which a retailer may file his return, in the  
22 case of any retailer who ceases to engage in a kind of business  
23 which makes him responsible for filing returns under this Act,  
24 such retailer shall file a final return under this Act with the  
25 Department not more than one month after discontinuing such  
26 business.

1           Where the same person has more than one business registered  
2 with the Department under separate registrations under this  
3 Act, such person may not file each return that is due as a  
4 single return covering all such registered businesses, but  
5 shall file separate returns for each such registered business.

6           In addition, with respect to motor vehicles, watercraft,  
7 aircraft, and trailers that are required to be registered with  
8 an agency of this State, every retailer selling this kind of  
9 tangible personal property shall file, with the Department,  
10 upon a form to be prescribed and supplied by the Department, a  
11 separate return for each such item of tangible personal  
12 property which the retailer sells, except that if, in the same  
13 transaction, (i) a retailer of aircraft, watercraft, motor  
14 vehicles or trailers transfers more than one aircraft,  
15 watercraft, motor vehicle or trailer to another aircraft,  
16 watercraft, motor vehicle retailer or trailer retailer for the  
17 purpose of resale or (ii) a retailer of aircraft, watercraft,  
18 motor vehicles, or trailers transfers more than one aircraft,  
19 watercraft, motor vehicle, or trailer to a purchaser for use as  
20 a qualifying rolling stock as provided in Section 2-5 of this  
21 Act, then that seller may report the transfer of all aircraft,  
22 watercraft, motor vehicles or trailers involved in that  
23 transaction to the Department on the same uniform  
24 invoice-transaction reporting return form. For purposes of  
25 this Section, "watercraft" means a Class 2, Class 3, or Class 4  
26 watercraft as defined in Section 3-2 of the Boat Registration

1 and Safety Act, a personal watercraft, or any boat equipped  
2 with an inboard motor.

3 Any retailer who sells only motor vehicles, watercraft,  
4 aircraft, or trailers that are required to be registered with  
5 an agency of this State, so that all retailers' occupation tax  
6 liability is required to be reported, and is reported, on such  
7 transaction reporting returns and who is not otherwise required  
8 to file monthly or quarterly returns, need not file monthly or  
9 quarterly returns. However, those retailers shall be required  
10 to file returns on an annual basis.

11 The transaction reporting return, in the case of motor  
12 vehicles or trailers that are required to be registered with an  
13 agency of this State, shall be the same document as the Uniform  
14 Invoice referred to in Section 5-402 of The Illinois Vehicle  
15 Code and must show the name and address of the seller; the name  
16 and address of the purchaser; the amount of the selling price  
17 including the amount allowed by the retailer for traded-in  
18 property, if any; the amount allowed by the retailer for the  
19 traded-in tangible personal property, if any, to the extent to  
20 which Section 1 of this Act allows an exemption for the value  
21 of traded-in property; the balance payable after deducting such  
22 trade-in allowance from the total selling price; the amount of  
23 tax due from the retailer with respect to such transaction; the  
24 amount of tax collected from the purchaser by the retailer on  
25 such transaction (or satisfactory evidence that such tax is not  
26 due in that particular instance, if that is claimed to be the

1 fact); the place and date of the sale; a sufficient  
2 identification of the property sold; such other information as  
3 is required in Section 5-402 of The Illinois Vehicle Code, and  
4 such other information as the Department may reasonably  
5 require.

6 The transaction reporting return in the case of watercraft  
7 or aircraft must show the name and address of the seller; the  
8 name and address of the purchaser; the amount of the selling  
9 price including the amount allowed by the retailer for  
10 traded-in property, if any; the amount allowed by the retailer  
11 for the traded-in tangible personal property, if any, to the  
12 extent to which Section 1 of this Act allows an exemption for  
13 the value of traded-in property; the balance payable after  
14 deducting such trade-in allowance from the total selling price;  
15 the amount of tax due from the retailer with respect to such  
16 transaction; the amount of tax collected from the purchaser by  
17 the retailer on such transaction (or satisfactory evidence that  
18 such tax is not due in that particular instance, if that is  
19 claimed to be the fact); the place and date of the sale, a  
20 sufficient identification of the property sold, and such other  
21 information as the Department may reasonably require.

22 Such transaction reporting return shall be filed not later  
23 than 20 days after the day of delivery of the item that is  
24 being sold, but may be filed by the retailer at any time sooner  
25 than that if he chooses to do so. The transaction reporting  
26 return and tax remittance or proof of exemption from the

1 Illinois use tax may be transmitted to the Department by way of  
2 the State agency with which, or State officer with whom the  
3 tangible personal property must be titled or registered (if  
4 titling or registration is required) if the Department and such  
5 agency or State officer determine that this procedure will  
6 expedite the processing of applications for title or  
7 registration.

8 With each such transaction reporting return, the retailer  
9 shall remit the proper amount of tax due (or shall submit  
10 satisfactory evidence that the sale is not taxable if that is  
11 the case), to the Department or its agents, whereupon the  
12 Department shall issue, in the purchaser's name, a use tax  
13 receipt (or a certificate of exemption if the Department is  
14 satisfied that the particular sale is tax exempt) which such  
15 purchaser may submit to the agency with which, or State officer  
16 with whom, he must title or register the tangible personal  
17 property that is involved (if titling or registration is  
18 required) in support of such purchaser's application for an  
19 Illinois certificate or other evidence of title or registration  
20 to such tangible personal property.

21 No retailer's failure or refusal to remit tax under this  
22 Act precludes a user, who has paid the proper tax to the  
23 retailer, from obtaining his certificate of title or other  
24 evidence of title or registration (if titling or registration  
25 is required) upon satisfying the Department that such user has  
26 paid the proper tax (if tax is due) to the retailer. The

1 Department shall adopt appropriate rules to carry out the  
2 mandate of this paragraph.

3 If the user who would otherwise pay tax to the retailer  
4 wants the transaction reporting return filed and the payment of  
5 the tax or proof of exemption made to the Department before the  
6 retailer is willing to take these actions and such user has not  
7 paid the tax to the retailer, such user may certify to the fact  
8 of such delay by the retailer and may (upon the Department  
9 being satisfied of the truth of such certification) transmit  
10 the information required by the transaction reporting return  
11 and the remittance for tax or proof of exemption directly to  
12 the Department and obtain his tax receipt or exemption  
13 determination, in which event the transaction reporting return  
14 and tax remittance (if a tax payment was required) shall be  
15 credited by the Department to the proper retailer's account  
16 with the Department, but without the 2.1% or 1.75% discount  
17 provided for in this Section being allowed. When the user pays  
18 the tax directly to the Department, he shall pay the tax in the  
19 same amount and in the same form in which it would be remitted  
20 if the tax had been remitted to the Department by the retailer.

21 Refunds made by the seller during the preceding return  
22 period to purchasers, on account of tangible personal property  
23 returned to the seller, shall be allowed as a deduction under  
24 subdivision 5 of his monthly or quarterly return, as the case  
25 may be, in case the seller had theretofore included the  
26 receipts from the sale of such tangible personal property in a

1 return filed by him and had paid the tax imposed by this Act  
2 with respect to such receipts.

3 Where the seller is a corporation, the return filed on  
4 behalf of such corporation shall be signed by the president,  
5 vice-president, secretary or treasurer or by the properly  
6 accredited agent of such corporation.

7 Where the seller is a limited liability company, the return  
8 filed on behalf of the limited liability company shall be  
9 signed by a manager, member, or properly accredited agent of  
10 the limited liability company.

11 Except as provided in this Section, the retailer filing the  
12 return under this Section shall, at the time of filing such  
13 return, pay to the Department the amount of tax imposed by this  
14 Act less a discount of 2.1% prior to January 1, 1990 and 1.75%  
15 on and after January 1, 1990, or \$5 per calendar year,  
16 whichever is greater, which is allowed to reimburse the  
17 retailer for the expenses incurred in keeping records,  
18 preparing and filing returns, remitting the tax and supplying  
19 data to the Department on request. Any prepayment made pursuant  
20 to Section 2d of this Act shall be included in the amount on  
21 which such 2.1% or 1.75% discount is computed. In the case of  
22 retailers who report and pay the tax on a transaction by  
23 transaction basis, as provided in this Section, such discount  
24 shall be taken with each such tax remittance instead of when  
25 such retailer files his periodic return. The Department may  
26 disallow the discount for retailers whose certificate of

1 registration is revoked at the time the return is filed, but  
2 only if the Department's decision to revoke the certificate of  
3 registration has become final.

4 Before October 1, 2000, if the taxpayer's average monthly  
5 tax liability to the Department under this Act, the Use Tax  
6 Act, the Service Occupation Tax Act, and the Service Use Tax  
7 Act, excluding any liability for prepaid sales tax to be  
8 remitted in accordance with Section 2d of this Act, was \$10,000  
9 or more during the preceding 4 complete calendar quarters, he  
10 shall file a return with the Department each month by the 20th  
11 day of the month next following the month during which such tax  
12 liability is incurred and shall make payments to the Department  
13 on or before the 7th, 15th, 22nd and last day of the month  
14 during which such liability is incurred. On and after October  
15 1, 2000, if the taxpayer's average monthly tax liability to the  
16 Department under this Act, the Use Tax Act, the Service  
17 Occupation Tax Act, and the Service Use Tax Act, excluding any  
18 liability for prepaid sales tax to be remitted in accordance  
19 with Section 2d of this Act, was \$20,000 or more during the  
20 preceding 4 complete calendar quarters, he shall file a return  
21 with the Department each month by the 20th day of the month  
22 next following the month during which such tax liability is  
23 incurred and shall make payment to the Department on or before  
24 the 7th, 15th, 22nd and last day of the month during which such  
25 liability is incurred. If the month during which such tax  
26 liability is incurred began prior to January 1, 1985, each



1 payment shall be in an amount equal to 1/4 of the taxpayer's  
2 actual liability for the month or an amount set by the  
3 Department not to exceed 1/4 of the average monthly liability  
4 of the taxpayer to the Department for the preceding 4 complete  
5 calendar quarters (excluding the month of highest liability and  
6 the month of lowest liability in such 4 quarter period). If the  
7 month during which such tax liability is incurred begins on or  
8 after January 1, 1985 and prior to January 1, 1987, each  
9 payment shall be in an amount equal to 22.5% of the taxpayer's  
10 actual liability for the month or 27.5% of the taxpayer's  
11 liability for the same calendar month of the preceding year. If  
12 the month during which such tax liability is incurred begins on  
13 or after January 1, 1987 and prior to January 1, 1988, each  
14 payment shall be in an amount equal to 22.5% of the taxpayer's  
15 actual liability for the month or 26.25% of the taxpayer's  
16 liability for the same calendar month of the preceding year. If  
17 the month during which such tax liability is incurred begins on  
18 or after January 1, 1988, and prior to January 1, 1989, or  
19 begins on or after January 1, 1996, each payment shall be in an  
20 amount equal to 22.5% of the taxpayer's actual liability for  
21 the month or 25% of the taxpayer's liability for the same  
22 calendar month of the preceding year. If the month during which  
23 such tax liability is incurred begins on or after January 1,  
24 1989, and prior to January 1, 1996, each payment shall be in an  
25 amount equal to 22.5% of the taxpayer's actual liability for  
26 the month or 25% of the taxpayer's liability for the same

1 calendar month of the preceding year or 100% of the taxpayer's  
2 actual liability for the quarter monthly reporting period. The  
3 amount of such quarter monthly payments shall be credited  
4 against the final tax liability of the taxpayer's return for  
5 that month. Before October 1, 2000, once applicable, the  
6 requirement of the making of quarter monthly payments to the  
7 Department by taxpayers having an average monthly tax liability  
8 of \$10,000 or more as determined in the manner provided above  
9 shall continue until such taxpayer's average monthly liability  
10 to the Department during the preceding 4 complete calendar  
11 quarters (excluding the month of highest liability and the  
12 month of lowest liability) is less than \$9,000, or until such  
13 taxpayer's average monthly liability to the Department as  
14 computed for each calendar quarter of the 4 preceding complete  
15 calendar quarter period is less than \$10,000. However, if a  
16 taxpayer can show the Department that a substantial change in  
17 the taxpayer's business has occurred which causes the taxpayer  
18 to anticipate that his average monthly tax liability for the  
19 reasonably foreseeable future will fall below the \$10,000  
20 threshold stated above, then such taxpayer may petition the  
21 Department for a change in such taxpayer's reporting status. On  
22 and after October 1, 2000, once applicable, the requirement of  
23 the making of quarter monthly payments to the Department by  
24 taxpayers having an average monthly tax liability of \$20,000 or  
25 more as determined in the manner provided above shall continue  
26 until such taxpayer's average monthly liability to the

1 Department during the preceding 4 complete calendar quarters  
2 (excluding the month of highest liability and the month of  
3 lowest liability) is less than \$19,000 or until such taxpayer's  
4 average monthly liability to the Department as computed for  
5 each calendar quarter of the 4 preceding complete calendar  
6 quarter period is less than \$20,000. However, if a taxpayer can  
7 show the Department that a substantial change in the taxpayer's  
8 business has occurred which causes the taxpayer to anticipate  
9 that his average monthly tax liability for the reasonably  
10 foreseeable future will fall below the \$20,000 threshold stated  
11 above, then such taxpayer may petition the Department for a  
12 change in such taxpayer's reporting status. The Department  
13 shall change such taxpayer's reporting status unless it finds  
14 that such change is seasonal in nature and not likely to be  
15 long term. If any such quarter monthly payment is not paid at  
16 the time or in the amount required by this Section, then the  
17 taxpayer shall be liable for penalties and interest on the  
18 difference between the minimum amount due as a payment and the  
19 amount of such quarter monthly payment actually and timely  
20 paid, except insofar as the taxpayer has previously made  
21 payments for that month to the Department in excess of the  
22 minimum payments previously due as provided in this Section.  
23 The Department shall make reasonable rules and regulations to  
24 govern the quarter monthly payment amount and quarter monthly  
25 payment dates for taxpayers who file on other than a calendar  
26 monthly basis.

1           The provisions of this paragraph apply before October 1,  
2           2001. Without regard to whether a taxpayer is required to make  
3           quarter monthly payments as specified above, any taxpayer who  
4           is required by Section 2d of this Act to collect and remit  
5           prepaid taxes and has collected prepaid taxes which average in  
6           excess of \$25,000 per month during the preceding 2 complete  
7           calendar quarters, shall file a return with the Department as  
8           required by Section 2f and shall make payments to the  
9           Department on or before the 7th, 15th, 22nd and last day of the  
10          month during which such liability is incurred. If the month  
11          during which such tax liability is incurred began prior to the  
12          effective date of this amendatory Act of 1985, each payment  
13          shall be in an amount not less than 22.5% of the taxpayer's  
14          actual liability under Section 2d. If the month during which  
15          such tax liability is incurred begins on or after January 1,  
16          1986, each payment shall be in an amount equal to 22.5% of the  
17          taxpayer's actual liability for the month or 27.5% of the  
18          taxpayer's liability for the same calendar month of the  
19          preceding calendar year. If the month during which such tax  
20          liability is incurred begins on or after January 1, 1987, each  
21          payment shall be in an amount equal to 22.5% of the taxpayer's  
22          actual liability for the month or 26.25% of the taxpayer's  
23          liability for the same calendar month of the preceding year.  
24          The amount of such quarter monthly payments shall be credited  
25          against the final tax liability of the taxpayer's return for  
26          that month filed under this Section or Section 2f, as the case

1 may be. Once applicable, the requirement of the making of  
2 quarter monthly payments to the Department pursuant to this  
3 paragraph shall continue until such taxpayer's average monthly  
4 prepaid tax collections during the preceding 2 complete  
5 calendar quarters is \$25,000 or less. If any such quarter  
6 monthly payment is not paid at the time or in the amount  
7 required, the taxpayer shall be liable for penalties and  
8 interest on such difference, except insofar as the taxpayer has  
9 previously made payments for that month in excess of the  
10 minimum payments previously due.

11 The provisions of this paragraph apply on and after October  
12 1, 2001. Without regard to whether a taxpayer is required to  
13 make quarter monthly payments as specified above, any taxpayer  
14 who is required by Section 2d of this Act to collect and remit  
15 prepaid taxes and has collected prepaid taxes that average in  
16 excess of \$20,000 per month during the preceding 4 complete  
17 calendar quarters shall file a return with the Department as  
18 required by Section 2f and shall make payments to the  
19 Department on or before the 7th, 15th, 22nd and last day of the  
20 month during which the liability is incurred. Each payment  
21 shall be in an amount equal to 22.5% of the taxpayer's actual  
22 liability for the month or 25% of the taxpayer's liability for  
23 the same calendar month of the preceding year. The amount of  
24 the quarter monthly payments shall be credited against the  
25 final tax liability of the taxpayer's return for that month  
26 filed under this Section or Section 2f, as the case may be.

1 Once applicable, the requirement of the making of quarter  
2 monthly payments to the Department pursuant to this paragraph  
3 shall continue until the taxpayer's average monthly prepaid tax  
4 collections during the preceding 4 complete calendar quarters  
5 (excluding the month of highest liability and the month of  
6 lowest liability) is less than \$19,000 or until such taxpayer's  
7 average monthly liability to the Department as computed for  
8 each calendar quarter of the 4 preceding complete calendar  
9 quarters is less than \$20,000. If any such quarter monthly  
10 payment is not paid at the time or in the amount required, the  
11 taxpayer shall be liable for penalties and interest on such  
12 difference, except insofar as the taxpayer has previously made  
13 payments for that month in excess of the minimum payments  
14 previously due.

15 If any payment provided for in this Section exceeds the  
16 taxpayer's liabilities under this Act, the Use Tax Act, the  
17 Service Occupation Tax Act and the Service Use Tax Act, as  
18 shown on an original monthly return, the Department shall, if  
19 requested by the taxpayer, issue to the taxpayer a credit  
20 memorandum no later than 30 days after the date of payment. The  
21 credit evidenced by such credit memorandum may be assigned by  
22 the taxpayer to a similar taxpayer under this Act, the Use Tax  
23 Act, the Service Occupation Tax Act or the Service Use Tax Act,  
24 in accordance with reasonable rules and regulations to be  
25 prescribed by the Department. If no such request is made, the  
26 taxpayer may credit such excess payment against tax liability

1 subsequently to be remitted to the Department under this Act,  
2 the Use Tax Act, the Service Occupation Tax Act or the Service  
3 Use Tax Act, in accordance with reasonable rules and  
4 regulations prescribed by the Department. If the Department  
5 subsequently determined that all or any part of the credit  
6 taken was not actually due to the taxpayer, the taxpayer's 2.1%  
7 and 1.75% vendor's discount shall be reduced by 2.1% or 1.75%  
8 of the difference between the credit taken and that actually  
9 due, and that taxpayer shall be liable for penalties and  
10 interest on such difference.

11 If a retailer of motor fuel is entitled to a credit under  
12 Section 2d of this Act which exceeds the taxpayer's liability  
13 to the Department under this Act for the month which the  
14 taxpayer is filing a return, the Department shall issue the  
15 taxpayer a credit memorandum for the excess.

16 Beginning January 1, 1990, each month the Department shall  
17 pay into the Local Government Tax Fund, a special fund in the  
18 State treasury which is hereby created, the net revenue  
19 realized for the preceding month from the 1% tax on sales of  
20 food for human consumption which is to be consumed off the  
21 premises where it is sold (other than alcoholic beverages, soft  
22 drinks and food which has been prepared for immediate  
23 consumption) and prescription and nonprescription medicines,  
24 drugs, medical appliances and insulin, urine testing  
25 materials, syringes and needles used by diabetics.

26 Beginning January 1, 1990, each month the Department shall

1 pay into the County and Mass Transit District Fund, a special  
2 fund in the State treasury which is hereby created, 4% of the  
3 net revenue realized for the preceding month from the 6.25%  
4 general rate.

5 Beginning August 1, 2000, each month the Department shall  
6 pay into the County and Mass Transit District Fund 20% of the  
7 net revenue realized for the preceding month from the 1.25%  
8 rate on the selling price of motor fuel and gasohol. Beginning  
9 September 1, 2010, each month the Department shall pay into the  
10 County and Mass Transit District Fund 20% of the net revenue  
11 realized for the preceding month from the 1.25% rate on the  
12 selling price of sales tax holiday items.

13 Beginning January 1, 1990, each month the Department shall  
14 pay into the Local Government Tax Fund 16% of the net revenue  
15 realized for the preceding month from the 6.25% general rate on  
16 the selling price of tangible personal property.

17 Beginning August 1, 2000, each month the Department shall  
18 pay into the Local Government Tax Fund 80% of the net revenue  
19 realized for the preceding month from the 1.25% rate on the  
20 selling price of motor fuel and gasohol. Beginning September 1,  
21 2010, each month the Department shall pay into the Local  
22 Government Tax Fund 80% of the net revenue realized for the  
23 preceding month from the 1.25% rate on the selling price of  
24 sales tax holiday items.

25 Beginning October 1, 2009, each month the Department shall  
26 pay into the Capital Projects Fund an amount that is equal to



1 an amount estimated by the Department to represent 80% of the  
2 net revenue realized for the preceding month from the sale of  
3 candy, grooming and hygiene products, and soft drinks that had  
4 been taxed at a rate of 1% prior to September 1, 2009 but that  
5 are ~~is~~ now taxed at 6.25%.

6 Beginning July 1, 2011, each month the Department shall pay  
7 into the Clean Air Act (CAA) Permit Fund 80% of the net revenue  
8 realized for the preceding month from the 6.25% general rate on  
9 the selling price of sorbents used in Illinois in the process  
10 of sorbent injection as used to comply with the Environmental  
11 Protection Act or the federal Clean Air Act, but the total  
12 payment into the Clean Air Act (CAA) Permit Fund under this Act  
13 and the Use Tax Act shall not exceed \$2,000,000 in any fiscal  
14 year.

15 Beginning July 1, 2013, each month the Department shall pay  
16 into the Underground Storage Tank Fund from the proceeds  
17 collected under this Act, the Use Tax Act, the Service Use Tax  
18 Act, and the Service Occupation Tax Act an amount equal to the  
19 average monthly deficit in the Underground Storage Tank Fund  
20 during the prior year, as certified annually by the Illinois  
21 Environmental Protection Agency, but the total payment into the  
22 Underground Storage Tank Fund under this Act, the Use Tax Act,  
23 the Service Use Tax Act, and the Service Occupation Tax Act  
24 shall not exceed \$18,000,000 in any State fiscal year. As used  
25 in this paragraph, the "average monthly deficit" shall be equal  
26 to the difference between the average monthly claims for

1 payment by the fund and the average monthly revenues deposited  
2 into the fund, excluding payments made pursuant to this  
3 paragraph.

4 Of the remainder of the moneys received by the Department  
5 pursuant to this Act, (a) 1.75% thereof shall be paid into the  
6 Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on  
7 and after July 1, 1989, 3.8% thereof shall be paid into the  
8 Build Illinois Fund; provided, however, that if in any fiscal  
9 year the sum of (1) the aggregate of 2.2% or 3.8%, as the case  
10 may be, of the moneys received by the Department and required  
11 to be paid into the Build Illinois Fund pursuant to this Act,  
12 Section 9 of the Use Tax Act, Section 9 of the Service Use Tax  
13 Act, and Section 9 of the Service Occupation Tax Act, such Acts  
14 being hereinafter called the "Tax Acts" and such aggregate of  
15 2.2% or 3.8%, as the case may be, of moneys being hereinafter  
16 called the "Tax Act Amount", and (2) the amount transferred to  
17 the Build Illinois Fund from the State and Local Sales Tax  
18 Reform Fund shall be less than the Annual Specified Amount (as  
19 hereinafter defined), an amount equal to the difference shall  
20 be immediately paid into the Build Illinois Fund from other  
21 moneys received by the Department pursuant to the Tax Acts; the  
22 "Annual Specified Amount" means the amounts specified below for  
23 fiscal years 1986 through 1993:

Fiscal Year	Annual Specified Amount
1986	\$54,800,000
1987	\$76,650,000

1	1988	\$80,480,000
2	1989	\$88,510,000
3	1990	\$115,330,000
4	1991	\$145,470,000
5	1992	\$182,730,000
6	1993	\$206,520,000;

7 and means the Certified Annual Debt Service Requirement (as  
8 defined in Section 13 of the Build Illinois Bond Act) or the  
9 Tax Act Amount, whichever is greater, for fiscal year 1994 and  
10 each fiscal year thereafter; and further provided, that if on  
11 the last business day of any month the sum of (1) the Tax Act  
12 Amount required to be deposited into the Build Illinois Bond  
13 Account in the Build Illinois Fund during such month and (2)  
14 the amount transferred to the Build Illinois Fund from the  
15 State and Local Sales Tax Reform Fund shall have been less than  
16 1/12 of the Annual Specified Amount, an amount equal to the  
17 difference shall be immediately paid into the Build Illinois  
18 Fund from other moneys received by the Department pursuant to  
19 the Tax Acts; and, further provided, that in no event shall the  
20 payments required under the preceding proviso result in  
21 aggregate payments into the Build Illinois Fund pursuant to  
22 this clause (b) for any fiscal year in excess of the greater of  
23 (i) the Tax Act Amount or (ii) the Annual Specified Amount for  
24 such fiscal year. The amounts payable into the Build Illinois  
25 Fund under clause (b) of the first sentence in this paragraph  
26 shall be payable only until such time as the aggregate amount

1 on deposit under each trust indenture securing Bonds issued and  
2 outstanding pursuant to the Build Illinois Bond Act is  
3 sufficient, taking into account any future investment income,  
4 to fully provide, in accordance with such indenture, for the  
5 defeasance of or the payment of the principal of, premium, if  
6 any, and interest on the Bonds secured by such indenture and on  
7 any Bonds expected to be issued thereafter and all fees and  
8 costs payable with respect thereto, all as certified by the  
9 Director of the Bureau of the Budget (now Governor's Office of  
10 Management and Budget). If on the last business day of any  
11 month in which Bonds are outstanding pursuant to the Build  
12 Illinois Bond Act, the aggregate of moneys deposited in the  
13 Build Illinois Bond Account in the Build Illinois Fund in such  
14 month shall be less than the amount required to be transferred  
15 in such month from the Build Illinois Bond Account to the Build  
16 Illinois Bond Retirement and Interest Fund pursuant to Section  
17 13 of the Build Illinois Bond Act, an amount equal to such  
18 deficiency shall be immediately paid from other moneys received  
19 by the Department pursuant to the Tax Acts to the Build  
20 Illinois Fund; provided, however, that any amounts paid to the  
21 Build Illinois Fund in any fiscal year pursuant to this  
22 sentence shall be deemed to constitute payments pursuant to  
23 clause (b) of the first sentence of this paragraph and shall  
24 reduce the amount otherwise payable for such fiscal year  
25 pursuant to that clause (b). The moneys received by the  
26 Department pursuant to this Act and required to be deposited

1 into the Build Illinois Fund are subject to the pledge, claim  
 2 and charge set forth in Section 12 of the Build Illinois Bond  
 3 Act.

4 Subject to payment of amounts into the Build Illinois Fund  
 5 as provided in the preceding paragraph or in any amendment  
 6 thereto hereafter enacted, the following specified monthly  
 7 installment of the amount requested in the certificate of the  
 8 Chairman of the Metropolitan Pier and Exposition Authority  
 9 provided under Section 8.25f of the State Finance Act, but not  
 10 in excess of sums designated as "Total Deposit", shall be  
 11 deposited in the aggregate from collections under Section 9 of  
 12 the Use Tax Act, Section 9 of the Service Use Tax Act, Section  
 13 9 of the Service Occupation Tax Act, and Section 3 of the  
 14 Retailers' Occupation Tax Act into the McCormick Place  
 15 Expansion Project Fund in the specified fiscal years.

	Fiscal Year	Total Deposit
17	1993	\$0
18	1994	53,000,000
19	1995	58,000,000
20	1996	61,000,000
21	1997	64,000,000
22	1998	68,000,000
23	1999	71,000,000
24	2000	75,000,000
25	2001	80,000,000

1	2002	93,000,000
2	2003	99,000,000
3	2004	103,000,000
4	2005	108,000,000
5	2006	113,000,000
6	2007	119,000,000
7	2008	126,000,000
8	2009	132,000,000
9	2010	139,000,000
10	2011	146,000,000
11	2012	153,000,000
12	2013	161,000,000
13	2014	170,000,000
14	2015	179,000,000
15	2016	189,000,000
16	2017	199,000,000
17	2018	210,000,000
18	2019	221,000,000
19	2020	233,000,000
20	2021	246,000,000
21	2022	260,000,000
22	2023	275,000,000
23	2024	275,000,000
24	2025	275,000,000
25	2026	279,000,000
26	2027	292,000,000

1	2028	307,000,000
2	2029	322,000,000
3	2030	338,000,000
4	2031	350,000,000
5	2032	350,000,000

6 and

7 each fiscal year

8 thereafter that bonds

9 are outstanding under

10 Section 13.2 of the

11 Metropolitan Pier and

12 Exposition Authority Act,

13 but not after fiscal year 2060.

14 Beginning July 20, 1993 and in each month of each fiscal  
15 year thereafter, one-eighth of the amount requested in the  
16 certificate of the Chairman of the Metropolitan Pier and  
17 Exposition Authority for that fiscal year, less the amount  
18 deposited into the McCormick Place Expansion Project Fund by  
19 the State Treasurer in the respective month under subsection  
20 (g) of Section 13 of the Metropolitan Pier and Exposition  
21 Authority Act, plus cumulative deficiencies in the deposits  
22 required under this Section for previous months and years,  
23 shall be deposited into the McCormick Place Expansion Project  
24 Fund, until the full amount requested for the fiscal year, but  
25 not in excess of the amount specified above as "Total Deposit",  
26 has been deposited.

1           Subject to payment of amounts into the Build Illinois Fund  
2 and the McCormick Place Expansion Project Fund pursuant to the  
3 preceding paragraphs or in any amendments thereto hereafter  
4 enacted, beginning July 1, 1993 and ending on September 30,  
5 2013, the Department shall each month pay into the Illinois Tax  
6 Increment Fund 0.27% of 80% of the net revenue realized for the  
7 preceding month from the 6.25% general rate on the selling  
8 price of tangible personal property.

9           Subject to payment of amounts into the Build Illinois Fund  
10 and the McCormick Place Expansion Project Fund pursuant to the  
11 preceding paragraphs or in any amendments thereto hereafter  
12 enacted, beginning with the receipt of the first report of  
13 taxes paid by an eligible business and continuing for a 25-year  
14 period, the Department shall each month pay into the Energy  
15 Infrastructure Fund 80% of the net revenue realized from the  
16 6.25% general rate on the selling price of Illinois-mined coal  
17 that was sold to an eligible business. For purposes of this  
18 paragraph, the term "eligible business" means a new electric  
19 generating facility certified pursuant to Section 605-332 of  
20 the Department of Commerce and Economic Opportunity Law of the  
21 Civil Administrative Code of Illinois.

22           Of the remainder of the moneys received by the Department  
23 pursuant to this Act, 75% thereof shall be paid into the State  
24 Treasury and 25% shall be reserved in a special account and  
25 used only for the transfer to the Common School Fund as part of  
26 the monthly transfer from the General Revenue Fund in



1 accordance with Section 8a of the State Finance Act.

2 The Department may, upon separate written notice to a  
3 taxpayer, require the taxpayer to prepare and file with the  
4 Department on a form prescribed by the Department within not  
5 less than 60 days after receipt of the notice an annual  
6 information return for the tax year specified in the notice.  
7 Such annual return to the Department shall include a statement  
8 of gross receipts as shown by the retailer's last Federal  
9 income tax return. If the total receipts of the business as  
10 reported in the Federal income tax return do not agree with the  
11 gross receipts reported to the Department of Revenue for the  
12 same period, the retailer shall attach to his annual return a  
13 schedule showing a reconciliation of the 2 amounts and the  
14 reasons for the difference. The retailer's annual return to the  
15 Department shall also disclose the cost of goods sold by the  
16 retailer during the year covered by such return, opening and  
17 closing inventories of such goods for such year, costs of goods  
18 used from stock or taken from stock and given away by the  
19 retailer during such year, payroll information of the  
20 retailer's business during such year and any additional  
21 reasonable information which the Department deems would be  
22 helpful in determining the accuracy of the monthly, quarterly  
23 or annual returns filed by such retailer as provided for in  
24 this Section.

25 If the annual information return required by this Section  
26 is not filed when and as required, the taxpayer shall be liable

1 as follows:

2 (i) Until January 1, 1994, the taxpayer shall be liable  
3 for a penalty equal to 1/6 of 1% of the tax due from such  
4 taxpayer under this Act during the period to be covered by  
5 the annual return for each month or fraction of a month  
6 until such return is filed as required, the penalty to be  
7 assessed and collected in the same manner as any other  
8 penalty provided for in this Act.

9 (ii) On and after January 1, 1994, the taxpayer shall  
10 be liable for a penalty as described in Section 3-4 of the  
11 Uniform Penalty and Interest Act.

12 The chief executive officer, proprietor, owner or highest  
13 ranking manager shall sign the annual return to certify the  
14 accuracy of the information contained therein. Any person who  
15 willfully signs the annual return containing false or  
16 inaccurate information shall be guilty of perjury and punished  
17 accordingly. The annual return form prescribed by the  
18 Department shall include a warning that the person signing the  
19 return may be liable for perjury.

20 The provisions of this Section concerning the filing of an  
21 annual information return do not apply to a retailer who is not  
22 required to file an income tax return with the United States  
23 Government.

24 As soon as possible after the first day of each month, upon  
25 certification of the Department of Revenue, the Comptroller  
26 shall order transferred and the Treasurer shall transfer from

1 the General Revenue Fund to the Motor Fuel Tax Fund an amount  
2 equal to 1.7% of 80% of the net revenue realized under this Act  
3 for the second preceding month. Beginning April 1, 2000, this  
4 transfer is no longer required and shall not be made.

5 Net revenue realized for a month shall be the revenue  
6 collected by the State pursuant to this Act, less the amount  
7 paid out during that month as refunds to taxpayers for  
8 overpayment of liability.

9 For greater simplicity of administration, manufacturers,  
10 importers and wholesalers whose products are sold at retail in  
11 Illinois by numerous retailers, and who wish to do so, may  
12 assume the responsibility for accounting and paying to the  
13 Department all tax accruing under this Act with respect to such  
14 sales, if the retailers who are affected do not make written  
15 objection to the Department to this arrangement.

16 ~~Any person who promotes, organizes, provides retail~~  
17 ~~selling space for concessionaires or other types of sellers at~~  
18 ~~the Illinois State Fair, DuQuoin State Fair, county fairs,~~  
19 ~~local fairs, art shows, flea markets and similar exhibitions or~~  
20 ~~events, including any transient merchant as defined by Section~~  
21 ~~2 of the Transient Merchant Act of 1987, is required to file a~~  
22 ~~report with the Department providing the name of the merchant's~~  
23 ~~business, the name of the person or persons engaged in~~  
24 ~~merchant's business, the permanent address and Illinois~~  
25 ~~Retailers Occupation Tax Registration Number of the merchant,~~  
26 ~~the dates and location of the event and other reasonable~~

1 ~~information that the Department may require. The report must be~~  
2 ~~filed not later than the 20th day of the month next following~~  
3 ~~the month during which the event with retail sales was held.~~  
4 ~~Any person who fails to file a report required by this Section~~  
5 ~~commits a business offense and is subject to a fine not to~~  
6 ~~exceed \$250.~~

7 Any person engaged in the business of selling tangible  
8 personal property at retail as a concessionaire or other type  
9 of seller at the Illinois State Fair, county fairs, art shows,  
10 flea markets and similar exhibitions or events, or any  
11 transient merchants, as defined by Section 2 of the Transient  
12 Merchant Act of 1987, may be required to make a daily report of  
13 the amount of such sales to the Department and to make a daily  
14 payment of the full amount of tax due. The Department shall  
15 impose this requirement when it finds that there is a  
16 significant risk of loss of revenue to the State at such an  
17 exhibition or event. Such a finding shall be based on evidence  
18 that a substantial number of concessionaires or other sellers  
19 who are not residents of Illinois will be engaging in the  
20 business of selling tangible personal property at retail at the  
21 exhibition or event, or other evidence of a significant risk of  
22 loss of revenue to the State. The Department shall notify  
23 concessionaires and other sellers affected by the imposition of  
24 this requirement. In the absence of notification by the  
25 Department, the concessionaires and other sellers shall file  
26 their returns as otherwise required in this Section.

1 (Source: P.A. 97-95, eff. 7-12-11; 97-333, eff. 8-12-11; 98-24,  
2 eff. 6-19-13; 98-109, eff. 7-25-13; 98-496, eff. 1-1-14;  
3 revised 9-9-13.)

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.