



Rep. Barbara Flynn Currie

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LRB100 06943 HLH 23533 a

1 AMENDMENT TO HOUSE BILL 821

2 AMENDMENT NO. _____. Amend House Bill 821 by replacing
3 everything from line 24 on page 2 through line 5 on page 3 with
4 the following:

5 "such information as the Department may reasonably require. On
6 and after January 1, 2018, except for returns for motor
7 vehicles, watercraft, aircraft, and trailers that are required
8 to be registered with an agency of this State, any retailer
9 that is required to file its federal income tax return
10 electronically, either on a separate or consolidated basis,
11 must also electronically file all returns pursuant to this Act
12 unless the retailer can demonstrate undue hardship. The
13 Department shall adopt rules creating an undue hardship waiver
14 process consistent with the federal electronic filing undue
15 hardship waiver. A retailer that obtains a federal undue
16 hardship waiver is deemed to meet the Department's standards
17 for an undue hardship waiver under this Section."; and

1 on page 29, by replacing lines 7 through 12 with the following:
2 "information as the Department may reasonably require. On and
3 after January 1, 2018, any serviceman who is required to file
4 its federal income tax return electronically, either on a
5 separate or consolidated basis, must also electronically file
6 all returns pursuant to this Act unless the serviceman can
7 demonstrate undue hardship. The Department shall adopt rules
8 creating an undue hardship waiver process consistent with the
9 federal electronic filing undue hardship waiver. A retailer
10 that obtains a federal undue hardship waiver is deemed to meet
11 the Department's standards for an undue hardship waiver under
12 this Section."; and

13 on page 45, by replacing lines 9 through 14 with the following:
14 "such information as the Department may reasonably require. On
15 and after January 1, 2018, any serviceman who is required to
16 file its federal income tax return electronically, either on a
17 separate or consolidated basis, must also electronically file
18 all returns pursuant to this Act unless the serviceman can
19 demonstrate undue hardship. The Department shall adopt rules
20 creating an undue hardship waiver process consistent with the
21 federal electronic filing undue hardship waiver. A retailer
22 that obtains a federal undue hardship waiver is deemed to meet
23 the Department's standards for an undue hardship waiver under
24 this Section."; and

1 on page 62, line 25, by replacing "Section 3" with "Sections 2a
2 and 3"; and

3 on page 62, immediately below line 25, by inserting the
4 following:

5 "(35 ILCS 120/2a) (from Ch. 120, par. 441a)

6 Sec. 2a. It is unlawful for any person to engage in the
7 business of selling tangible personal property at retail in
8 this State without a certificate of registration from the
9 Department. Application for a certificate of registration
10 shall be made to the Department upon forms furnished by it.
11 Each such application shall be signed and verified and shall
12 state: (1) the name and social security number of the
13 applicant; (2) the address of his principal place of business;
14 (3) the address of the principal place of business from which
15 he engages in the business of selling tangible personal
16 property at retail in this State and the addresses of all other
17 places of business, if any (enumerating such addresses, if any,
18 in a separate list attached to and made a part of the
19 application), from which he engages in the business of selling
20 tangible personal property at retail in this State; (4) the
21 name and address of the person or persons who will be
22 responsible for filing returns and payment of taxes due under
23 this Act; (5) in the case of a publicly traded corporation, the
24 name and title of the Chief Financial Officer, Chief Operating

1 Officer, and any other officer or employee with responsibility
2 for preparing tax returns under this Act, ~~along with the last 4~~
3 ~~digits of each of their social security numbers,~~ and, in the
4 case of all other corporations, the name, title, and social
5 security number of each corporate officer; (6) in the case of a
6 limited liability company, the name, social security number,
7 and FEIN number of each manager and member; and (7) such other
8 information as the Department may reasonably require. The
9 application shall contain an acceptance of responsibility
10 signed by the person or persons who will be responsible for
11 filing returns and payment of the taxes due under this Act. If
12 the applicant will sell tangible personal property at retail
13 through vending machines, his application to register shall
14 indicate the number of vending machines to be so operated. If
15 requested by the Department at any time, that person shall
16 verify the total number of vending machines he or she uses in
17 his or her business of selling tangible personal property at
18 retail.

19 The Department may deny a certificate of registration to
20 any applicant if a person who is named as the owner, a partner,
21 a manager or member of a limited liability company, or a
22 corporate officer of the applicant on the application for the
23 certificate of registration is or has been named as the owner,
24 a partner, a manager or member of a limited liability company,
25 or a corporate officer on the application for the certificate
26 of registration of another retailer that is in default for

1 moneys due under this Act or any other tax or fee Act
2 administered by the Department. For purposes of this paragraph
3 only, in determining whether a person is in default for moneys
4 due, the Department shall include only amounts established as a
5 final liability within the 20 years prior to the date of the
6 Department's notice of denial of a certificate of registration.

7 The Department may require an applicant for a certificate
8 of registration hereunder to, at the time of filing such
9 application, furnish a bond from a surety company authorized to
10 do business in the State of Illinois, or an irrevocable bank
11 letter of credit or a bond signed by 2 personal sureties who
12 have filed, with the Department, sworn statements disclosing
13 net assets equal to at least 3 times the amount of the bond to
14 be required of such applicant, or a bond secured by an
15 assignment of a bank account or certificate of deposit, stocks
16 or bonds, conditioned upon the applicant paying to the State of
17 Illinois all moneys becoming due under this Act and under any
18 other State tax law or municipal or county tax ordinance or
19 resolution under which the certificate of registration that is
20 issued to the applicant under this Act will permit the
21 applicant to engage in business without registering separately
22 under such other law, ordinance or resolution. In making a
23 determination as to whether to require a bond or other
24 security, the Department shall take into consideration whether
25 the owner, any partner, any manager or member of a limited
26 liability company, or a corporate officer of the applicant is

1 or has been the owner, a partner, a manager or member of a
2 limited liability company, or a corporate officer of another
3 retailer that is in default for moneys due under this Act or
4 any other tax or fee Act administered by the Department; and
5 whether the owner, any partner, any manager or member of a
6 limited liability company, or a corporate officer of the
7 applicant is or has been the owner, a partner, a manager or
8 member of a limited liability company, or a corporate officer
9 of another retailer whose certificate of registration has been
10 revoked within the previous 5 years under this Act or any other
11 tax or fee Act administered by the Department. If a bond or
12 other security is required, the Department shall fix the amount
13 of the bond or other security, taking into consideration the
14 amount of money expected to become due from the applicant under
15 this Act and under any other State tax law or municipal or
16 county tax ordinance or resolution under which the certificate
17 of registration that is issued to the applicant under this Act
18 will permit the applicant to engage in business without
19 registering separately under such other law, ordinance, or
20 resolution. The amount of security required by the Department
21 shall be such as, in its opinion, will protect the State of
22 Illinois against failure to pay the amount which may become due
23 from the applicant under this Act and under any other State tax
24 law or municipal or county tax ordinance or resolution under
25 which the certificate of registration that is issued to the
26 applicant under this Act will permit the applicant to engage in

1 business without registering separately under such other law,
2 ordinance or resolution, but the amount of the security
3 required by the Department shall not exceed three times the
4 amount of the applicant's average monthly tax liability, or
5 \$50,000.00, whichever amount is lower.

6 No certificate of registration under this Act shall be
7 issued by the Department until the applicant provides the
8 Department with satisfactory security, if required, as herein
9 provided for.

10 Upon receipt of the application for certificate of
11 registration in proper form, and upon approval by the
12 Department of the security furnished by the applicant, if
13 required, the Department shall issue to such applicant a
14 certificate of registration which shall permit the person to
15 whom it is issued to engage in the business of selling tangible
16 personal property at retail in this State. The certificate of
17 registration shall be conspicuously displayed at the place of
18 business which the person so registered states in his
19 application to be the principal place of business from which he
20 engages in the business of selling tangible personal property
21 at retail in this State.

22 No certificate of registration issued to a taxpayer who
23 files returns required by this Act on a monthly basis shall be
24 valid after the expiration of 5 years from the date of its
25 issuance or last renewal. The expiration date of a
26 sub-certificate of registration shall be that of the

1 certificate of registration to which the sub-certificate
2 relates. A certificate of registration shall automatically be
3 renewed, subject to revocation as provided by this Act, for an
4 additional 5 years from the date of its expiration unless
5 otherwise notified by the Department as provided by this
6 paragraph. Where a taxpayer to whom a certificate of
7 registration is issued under this Act is in default to the
8 State of Illinois for delinquent returns or for moneys due
9 under this Act or any other State tax law or municipal or
10 county ordinance administered or enforced by the Department,
11 the Department shall, not less than 60 days before the
12 expiration date of such certificate of registration, give
13 notice to the taxpayer to whom the certificate was issued of
14 the account period of the delinquent returns, the amount of
15 tax, penalty and interest due and owing from the taxpayer, and
16 that the certificate of registration shall not be automatically
17 renewed upon its expiration date unless the taxpayer, on or
18 before the date of expiration, has filed and paid the
19 delinquent returns or paid the defaulted amount in full. A
20 taxpayer to whom such a notice is issued shall be deemed an
21 applicant for renewal. The Department shall promulgate
22 regulations establishing procedures for taxpayers who file
23 returns on a monthly basis but desire and qualify to change to
24 a quarterly or yearly filing basis and will no longer be
25 subject to renewal under this Section, and for taxpayers who
26 file returns on a yearly or quarterly basis but who desire or

1 are required to change to a monthly filing basis and will be
2 subject to renewal under this Section.

3 The Department may in its discretion approve renewal by an
4 applicant who is in default if, at the time of application for
5 renewal, the applicant files all of the delinquent returns or
6 pays to the Department such percentage of the defaulted amount
7 as may be determined by the Department and agrees in writing to
8 waive all limitations upon the Department for collection of the
9 remaining defaulted amount to the Department over a period not
10 to exceed 5 years from the date of renewal of the certificate;
11 however, no renewal application submitted by an applicant who
12 is in default shall be approved if the immediately preceding
13 renewal by the applicant was conditioned upon the installment
14 payment agreement described in this Section. The payment
15 agreement herein provided for shall be in addition to and not
16 in lieu of the security that may be required by this Section of
17 a taxpayer who is no longer considered a prior continuous
18 compliance taxpayer. The execution of the payment agreement as
19 provided in this Act shall not toll the accrual of interest at
20 the statutory rate.

21 The Department may suspend a certificate of registration if
22 the Department finds that the person to whom the certificate of
23 registration has been issued knowingly sold contraband
24 cigarettes.

25 A certificate of registration issued under this Act more
26 than 5 years before the effective date of this amendatory Act

1 of 1989 shall expire and be subject to the renewal provisions
2 of this Section on the next anniversary of the date of issuance
3 of such certificate which occurs more than 6 months after the
4 effective date of this amendatory Act of 1989. A certificate of
5 registration issued less than 5 years before the effective date
6 of this amendatory Act of 1989 shall expire and be subject to
7 the renewal provisions of this Section on the 5th anniversary
8 of the issuance of the certificate.

9 If the person so registered states that he operates other
10 places of business from which he engages in the business of
11 selling tangible personal property at retail in this State, the
12 Department shall furnish him with a sub-certificate of
13 registration for each such place of business, and the applicant
14 shall display the appropriate sub-certificate of registration
15 at each such place of business. All sub-certificates of
16 registration shall bear the same registration number as that
17 appearing upon the certificate of registration to which such
18 sub-certificates relate.

19 If the applicant will sell tangible personal property at
20 retail through vending machines, the Department shall furnish
21 him with a sub-certificate of registration for each such
22 vending machine, and the applicant shall display the
23 appropriate sub-certificate of registration on each such
24 vending machine by attaching the sub-certificate of
25 registration to a conspicuous part of such vending machine. If
26 a person who is registered to sell tangible personal property

1 at retail through vending machines adds an additional vending
2 machine or additional vending machines to the number of vending
3 machines he or she uses in his or her business of selling
4 tangible personal property at retail, he or she shall notify
5 the Department, on a form prescribed by the Department, to
6 request an additional sub-certificate or additional
7 sub-certificates of registration, as applicable. With each
8 such request, the applicant shall report the number of
9 sub-certificates of registration he or she is requesting as
10 well as the total number of vending machines from which he or
11 she makes retail sales.

12 Where the same person engages in 2 or more businesses of
13 selling tangible personal property at retail in this State,
14 which businesses are substantially different in character or
15 engaged in under different trade names or engaged in under
16 other substantially dissimilar circumstances (so that it is
17 more practicable, from an accounting, auditing or bookkeeping
18 standpoint, for such businesses to be separately registered),
19 the Department may require or permit such person (subject to
20 the same requirements concerning the furnishing of security as
21 those that are provided for hereinbefore in this Section as to
22 each application for a certificate of registration) to apply
23 for and obtain a separate certificate of registration for each
24 such business or for any of such businesses, under a single
25 certificate of registration supplemented by related
26 sub-certificates of registration.

1 Any person who is registered under the "Retailers'
2 Occupation Tax Act" as of March 8, 1963, and who, during the
3 3-year period immediately prior to March 8, 1963, or during a
4 continuous 3-year period part of which passed immediately
5 before and the remainder of which passes immediately after
6 March 8, 1963, has been so registered continuously and who is
7 determined by the Department not to have been either delinquent
8 or deficient in the payment of tax liability during that period
9 under this Act or under any other State tax law or municipal or
10 county tax ordinance or resolution under which the certificate
11 of registration that is issued to the registrant under this Act
12 will permit the registrant to engage in business without
13 registering separately under such other law, ordinance or
14 resolution, shall be considered to be a Prior Continuous
15 Compliance taxpayer. Also any taxpayer who has, as verified by
16 the Department, faithfully and continuously complied with the
17 condition of his bond or other security under the provisions of
18 this Act for a period of 3 consecutive years shall be
19 considered to be a Prior Continuous Compliance taxpayer.

20 Every Prior Continuous Compliance taxpayer shall be exempt
21 from all requirements under this Act concerning the furnishing
22 of a bond or other security as a condition precedent to his
23 being authorized to engage in the business of selling tangible
24 personal property at retail in this State. This exemption shall
25 continue for each such taxpayer until such time as he may be
26 determined by the Department to be delinquent in the filing of

1 any returns, or is determined by the Department (either through
2 the Department's issuance of a final assessment which has
3 become final under the Act, or by the taxpayer's filing of a
4 return which admits tax that is not paid to be due) to be
5 delinquent or deficient in the paying of any tax under this Act
6 or under any other State tax law or municipal or county tax
7 ordinance or resolution under which the certificate of
8 registration that is issued to the registrant under this Act
9 will permit the registrant to engage in business without
10 registering separately under such other law, ordinance or
11 resolution, at which time that taxpayer shall become subject to
12 all the financial responsibility requirements of this Act and,
13 as a condition of being allowed to continue to engage in the
14 business of selling tangible personal property at retail, may
15 be required to post bond or other acceptable security with the
16 Department covering liability which such taxpayer may
17 thereafter incur. Any taxpayer who fails to pay an admitted or
18 established liability under this Act may also be required to
19 post bond or other acceptable security with this Department
20 guaranteeing the payment of such admitted or established
21 liability.

22 No certificate of registration shall be issued to any
23 person who is in default to the State of Illinois for moneys
24 due under this Act or under any other State tax law or
25 municipal or county tax ordinance or resolution under which the
26 certificate of registration that is issued to the applicant

1 under this Act will permit the applicant to engage in business
2 without registering separately under such other law, ordinance
3 or resolution.

4 Any person aggrieved by any decision of the Department
5 under this Section may, within 20 days after notice of such
6 decision, protest and request a hearing, whereupon the
7 Department shall give notice to such person of the time and
8 place fixed for such hearing and shall hold a hearing in
9 conformity with the provisions of this Act and then issue its
10 final administrative decision in the matter to such person. In
11 the absence of such a protest within 20 days, the Department's
12 decision shall become final without any further determination
13 being made or notice given.

14 With respect to security other than bonds (upon which the
15 Department may sue in the event of a forfeiture), if the
16 taxpayer fails to pay, when due, any amount whose payment such
17 security guarantees, the Department shall, after such
18 liability is admitted by the taxpayer or established by the
19 Department through the issuance of a final assessment that has
20 become final under the law, convert the security which that
21 taxpayer has furnished into money for the State, after first
22 giving the taxpayer at least 10 days' written notice, by
23 registered or certified mail, to pay the liability or forfeit
24 such security to the Department. If the security consists of
25 stocks or bonds or other securities which are listed on a
26 public exchange, the Department shall sell such securities

1 through such public exchange. If the security consists of an
2 irrevocable bank letter of credit, the Department shall convert
3 the security in the manner provided for in the Uniform
4 Commercial Code. If the security consists of a bank certificate
5 of deposit, the Department shall convert the security into
6 money by demanding and collecting the amount of such bank
7 certificate of deposit from the bank which issued such
8 certificate. If the security consists of a type of stocks or
9 other securities which are not listed on a public exchange, the
10 Department shall sell such security to the highest and best
11 bidder after giving at least 10 days' notice of the date, time
12 and place of the intended sale by publication in the "State
13 Official Newspaper". If the Department realizes more than the
14 amount of such liability from the security, plus the expenses
15 incurred by the Department in converting the security into
16 money, the Department shall pay such excess to the taxpayer who
17 furnished such security, and the balance shall be paid into the
18 State Treasury.

19 The Department shall discharge any surety and shall release
20 and return any security deposited, assigned, pledged or
21 otherwise provided to it by a taxpayer under this Section
22 within 30 days after:

23 (1) such taxpayer becomes a Prior Continuous
24 Compliance taxpayer; or

25 (2) such taxpayer has ceased to collect receipts on
26 which he is required to remit tax to the Department, has

1 filed a final tax return, and has paid to the Department an
2 amount sufficient to discharge his remaining tax
3 liability, as determined by the Department, under this Act
4 and under every other State tax law or municipal or county
5 tax ordinance or resolution under which the certificate of
6 registration issued under this Act permits the registrant
7 to engage in business without registering separately under
8 such other law, ordinance or resolution. The Department
9 shall make a final determination of the taxpayer's
10 outstanding tax liability as expeditiously as possible
11 after his final tax return has been filed; if the
12 Department cannot make such final determination within 45
13 days after receiving the final tax return, within such
14 period it shall so notify the taxpayer, stating its reasons
15 therefor.

16 (Source: P.A. 97-335, eff. 1-1-12; 98-496, eff. 1-1-14; 98-583,
17 eff. 1-1-14; 98-756, eff. 7-16-14; 98-974, eff. 1-1-15.)"; and

18 on page 64, by replacing lines 8 through 14 with the following:

19 "On and after January 1, 2018, except for returns for motor
20 vehicles, watercraft, aircraft, and trailers that are required
21 to be registered with an agency of this State, any retailer
22 that is required to file its federal income tax return
23 electronically, either on a separate or consolidated basis,
24 must also electronically file all returns pursuant to this Act
25 unless the retailer can demonstrate undue hardship. The

1 Department shall adopt rules creating an undue hardship waiver
2 process consistent with the federal electronic filing undue
3 hardship waiver. A retailer that obtains a federal undue
4 hardship waiver is deemed to meet the Department's standards
5 for an undue hardship waiver under this Section."; and

6 on page 112, line 8, after "electronically", by inserting "as
7 provided in Section 3 of the Retailers' Occupation Tax Act.";
8 and

9 on page 118, by replacing lines 10 through 14 with the
10 following:

11 "On or after January 1, 2018, any tire retailer that is
12 required to file its federal income tax return electronically,
13 either on a separate or consolidated basis, must also
14 electronically file all returns under this Title XIV unless the
15 tire retailer can demonstrate undue hardship. The Department
16 shall adopt rules creating an undue hardship waiver process
17 consistent with the federal electronic filing undue hardship
18 waiver. A retailer that obtains a federal undue hardship waiver
19 is deemed to meet the Department's standards for an undue
20 hardship waiver under this Section."