

**SB2298**



**101ST GENERAL ASSEMBLY**

**State of Illinois**

**2019 and 2020**

**SB2298**

Introduced 11/6/2019, by Sen. Bill Cunningham

**SYNOPSIS AS INTRODUCED:**

65 ILCS 5/8-11-2.3

Amends the Illinois Municipal Code. Provides that the municipal motor fuel tax shall be imposed as a retailers' or service occupation tax. Prescribes conditions for reimbursement. Provides that any tax imposed, and all civil penalties that may be assessed as an incident thereof, shall be administered, collected, and enforced by the Department of Revenue in the same manner as the tax imposed under the Retailers' Occupation Tax Act. Effective immediately.

LRB101 14837 AWJ 63822 b

FISCAL NOTE ACT  
MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

**A BILL FOR**

1 AN ACT concerning local government.

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

4 Section 5. The Illinois Municipal Code is amended by  
5 changing Section 8-11-2.3 as follows:

6 (65 ILCS 5/8-11-2.3)

7 Sec. 8-11-2.3. Municipal Motor Fuel Tax Law ~~fuel tax~~.  
8 Notwithstanding any other provision of law, in addition to any  
9 other tax that may be imposed, a municipality ~~in a county with~~  
10 ~~a population of over 3,000,000 inhabitants~~ may also impose, by  
11 ordinance, a tax upon all persons engaged in the municipality  
12 in the business of selling motor fuel, as that term is defined  
13 in Section 1.1 of the Motor Fuel Tax Law, at retail for the  
14 operation of motor vehicles upon public highways or for the  
15 operation of recreational watercraft upon waterways,  
16 including, but not limited to, persons who make sales of motor  
17 fuel incident to a sale of service. The tax may be imposed, in  
18 one cent increments, ~~on motor fuel~~ at a rate not to exceed  
19 \$0.03 per gallon of motor fuel sold at retail within the  
20 municipality for the purpose of use or consumption and not for  
21 the purpose of resale. The tax may not be imposed under this  
22 Section on aviation fuel, as defined in Section 3 of the  
23 Retailers' Occupation Tax Act.

1       Persons subject to any tax imposed under the authority  
2 granted in this Section may reimburse themselves for their  
3 seller's tax liability under this Section by separately stating  
4 that tax as an additional charge, which charge may be stated in  
5 combination, in a single amount, with State tax which sellers  
6 are required to collect under the Use Tax Act, pursuant to such  
7 bracket schedules as the Department of Revenue may prescribe.

8       A tax imposed under this Section, and all civil penalties  
9 that may be assessed as an incident thereof, shall be  
10 administered, collected, and enforced by the Department of  
11 Revenue in the same manner as the tax imposed under the  
12 Retailers' Occupation Tax Act insofar as may be practicable;  
13 except that, in the event of a conflict with the provisions of  
14 this Section, this Section shall control. The Department shall  
15 have full power to: administer and enforce this Section;  
16 collect all taxes and penalties due under this Section; dispose  
17 of taxes and penalties so collected in the manner provided in  
18 this Section; and determine all rights to credit memoranda  
19 arising on account of the erroneous payment of tax or penalty  
20 under this Section.

21       Whenever the Department determines that a refund shall be  
22 made under this Section to a claimant instead of issuing a  
23 credit memorandum, the Department shall notify the State  
24 Comptroller, who shall cause the order to be drawn for the  
25 amount specified, and to the person named, in the notification  
26 from the Department. The refund shall be paid by the State

1 Treasurer out of the Municipal Motor Fuel Tax Fund.

2 ~~A license that is issued to a distributor or a receiver~~  
3 ~~under the Motor Fuel Tax Law shall permit that distributor or~~  
4 ~~receiver to act as a distributor or receiver, as applicable,~~  
5 ~~under this Section. The provisions of Sections 2b, 2d, 6, 6a,~~  
6 ~~12, 12a, 13, 13a.2, 13a.7, 13a.8, 15.1, and 21 of the Motor~~  
7 ~~Fuel Tax Law that are not inconsistent with this Section shall~~  
8 ~~apply as far as practicable to the subject matter of this~~  
9 ~~Section to the same extent as if those provisions were included~~  
10 ~~in this Section.~~

11 The Department shall immediately pay over to the State  
12 Treasurer, ex officio, as trustee, all taxes and penalties  
13 collected under this Section. Those taxes and penalties shall  
14 be deposited into the Municipal Motor Fuel Tax Fund, a trust  
15 fund created in the State treasury. Moneys in the Municipal  
16 Motor Fuel Tax Fund shall be used to make payments to  
17 municipalities and for the payment of refunds under this  
18 Section.

19 On or before the 25th day of each calendar month, the  
20 Department shall prepare and certify to the State Comptroller  
21 the disbursement of stated sums of money to named  
22 municipalities for which taxpayers have paid taxes or penalties  
23 under this Section to the Department during the second  
24 preceding calendar month. The amount to be paid to each  
25 municipality shall be the amount (not including credit  
26 memoranda) collected under this Section from retailers and

1 servicemen within the municipality during the second preceding  
2 calendar month by the Department ~~from the tax imposed by that~~  
3 ~~municipality under this Section during the second preceding~~  
4 ~~calendar month~~, plus an amount the Department determines is  
5 necessary to offset amounts that were erroneously paid to a  
6 different municipality, and not including an amount equal to  
7 the amount of refunds made during the second preceding calendar  
8 month by the Department on behalf of the municipality, and not  
9 including any amount that the Department determines is  
10 necessary to offset any amounts that were payable to a  
11 different municipality but were erroneously paid to the  
12 municipality, less 1.5% of the remainder, which the Department  
13 shall transfer into the Tax Compliance and Administration Fund.  
14 The Department, at the time of each monthly disbursement, shall  
15 prepare and certify to the State Comptroller the amount to be  
16 transferred into the Tax Compliance and Administration Fund  
17 under this Section. Within 10 days after receipt by the  
18 Comptroller of the disbursement certification to the  
19 municipalities and the Tax Compliance and Administration Fund  
20 provided for in this Section to be given to the Comptroller by  
21 the Department, the Comptroller shall cause the orders to be  
22 drawn for the respective amounts in accordance with the  
23 directions contained in the certification.

24 Nothing in this Section shall be construed to authorize a  
25 municipality to impose a tax upon the privilege of engaging in  
26 any business which under the Constitution of the United States

1 may not be made the subject of taxation by this State.

2 An ordinance or resolution imposing or discontinuing the  
3 tax under this Section or effecting a change in the rate of the  
4 tax shall either: (i) be adopted and a certified copy of the  
5 ordinance or resolution be filed with the Department on or  
6 before April 1, whereupon the Department shall proceed to  
7 administer and enforce this Section as of the July 1 next  
8 following the adoption and filing; or (ii) be adopted and a  
9 certified copy of the ordinance or resolution be filed with the  
10 Department on or before October 1, whereupon the Department  
11 shall proceed to administer and enforce this Section as of the  
12 January 1 next following the adoption and filing.

13 An ordinance adopted in accordance with the provisions of  
14 this Section in effect before the effective date of this  
15 amendatory Act of the 101st General Assembly and filed with the  
16 Department of Revenue on or before January 1, 2020 shall be  
17 deemed to impose the tax, effective on April 1, 2020, in  
18 accordance with the provisions of this Section as amended by  
19 this amendatory Act of the 101st General Assembly and shall be  
20 administered by the Department of Revenue, effective April 1,  
21 2020, in accordance with the provisions of this Section as  
22 amended by this amendatory Act of the 101st General Assembly;  
23 provided that, on or before October 1, 2020, the municipality  
24 adopts and files a certified copy of a superseding ordinance  
25 that imposes the tax in accordance with the provisions of this  
26 Section as amended by this amendatory Act of the 101st General

1 Assembly. If a superseding ordinance is not so adopted and  
2 filed, then the tax imposed in accordance with the provisions  
3 of this Section in effect before the effective date of this  
4 amendatory Act of the 101st General Assembly shall be  
5 discontinued on January 1, 2021.

6 This Section may be cited as the Municipal Motor Fuel Tax  
7 Law.

8 (Source: P.A. 101-32, eff. 6-28-19.)

9 Section 99. Effective date. This Act takes effect upon  
10 becoming law.