



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5760

Introduced 11/16/2022, by Rep. Deb Conroy

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1006.8

65 ILCS 5/8-11-23

Amends the County Cannabis Retailers' Occupation Tax Law and Municipal Cannabis Retailers' Occupation Tax Law. Provides that a certified copy of an ordinance imposing, or ordinance or resolution changing or discontinuing, a tax under the specified Laws shall be filed with the Department of Revenue and proof of filing shall be maintained by the county or municipality for at least 5 years. Effective immediately.

LRB102 28000 AWJ 39799 b

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 Counties Code is amended by changing
5 Section 5-1006.8 as follows:

6 (55 ILCS 5/5-1006.8)

7 Sec. 5-1006.8. County Cannabis Retailers' Occupation Tax
8 Law.

9 (a) This Section may be referred to as the County Cannabis
10 Retailers' Occupation Tax Law. The corporate authorities of
11 any county may, by ordinance, impose a tax upon all persons
12 engaged in the business of selling cannabis, other than
13 cannabis purchased under the Compassionate Use of Medical
14 Cannabis Program Act, at retail in the county on the gross
15 receipts from these sales made in the course of that business.
16 A certified copy of an ordinance imposing, or ordinance or
17 resolution changing or discontinuing, a tax under this Section
18 shall be filed with the Department of Revenue and proof of
19 filing shall be maintained by the county for at least 5 years.
20 If imposed, the tax shall be imposed only in 0.25% increments.
21 The tax rate may not exceed: (i) 3.75% of the gross receipts of
22 sales made in unincorporated areas of the county; and (ii) 3%
23 of the gross receipts of sales made in a municipality located

1 in the county. The tax imposed under this Section and all civil
2 penalties that may be assessed as an incident of the tax shall
3 be collected and enforced by the Department of Revenue. The
4 Department of Revenue shall have full power to administer and
5 enforce this Section; to collect all taxes and penalties due
6 hereunder; to dispose of taxes and penalties so collected in
7 the manner hereinafter provided; and to determine all rights
8 to credit memoranda arising on account of the erroneous
9 payment of tax or penalty under this Section. In the
10 administration of and compliance with this Section, the
11 Department of Revenue and persons who are subject to this
12 Section shall have the same rights, remedies, privileges,
13 immunities, powers and duties, and be subject to the same
14 conditions, restrictions, limitations, penalties, and
15 definitions of terms, and employ the same modes of procedure,
16 as are described in Sections 1, 1a, 1d, 1e, 1f, 1i, 1j, 1k, 1m,
17 1n, 2 through 2-65 (in respect to all provisions therein other
18 than the State rate of tax), 2a, 2b, 2c, 2i, 3 (except as to
19 the disposition of taxes and penalties collected), 4, 5, 5a,
20 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6bb, 6c, 6d,
21 7, 8, 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation
22 Tax Act and Section 3-7 of the Uniform Penalty and Interest Act
23 as fully as if those provisions were set forth in this Section.

24 (b) Persons subject to any tax imposed under the authority
25 granted in this Section may reimburse themselves for their
26 seller's tax liability hereunder by separately stating that

1 tax as an additional charge, which charge may be stated in
2 combination, in a single amount, with any State tax that
3 sellers are required to collect.

4 (c) Whenever the Department of Revenue determines that a
5 refund should be made under this Section to a claimant instead
6 of issuing a credit memorandum, the Department of Revenue
7 shall notify the State Comptroller, who shall cause the order
8 to be drawn for the amount specified and to the person named in
9 the notification from the Department of Revenue.

10 (d) The Department of Revenue shall immediately pay over
11 to the State Treasurer, ex officio, as trustee, all taxes and
12 penalties collected hereunder for deposit into the Local
13 Cannabis Retailers' Occupation Tax Trust Fund.

14 (e) On or before the 25th day of each calendar month, the
15 Department of Revenue shall prepare and certify to the
16 Comptroller the amount of money to be disbursed from the Local
17 Cannabis Retailers' Occupation Tax Trust Fund to counties from
18 which retailers have paid taxes or penalties under this
19 Section during the second preceding calendar month. The amount
20 to be paid to each county shall be the amount (not including
21 credit memoranda) collected under this Section from sales made
22 in the county during the second preceding calendar month, plus
23 an amount the Department of Revenue determines is necessary to
24 offset any amounts that were erroneously paid to a different
25 taxing body, and not including an amount equal to the amount of
26 refunds made during the second preceding calendar month by the

1 Department on behalf of such county, and not including any
2 amount that the Department determines is necessary to offset
3 any amounts that were payable to a different taxing body but
4 were erroneously paid to the county, less 1.5% of the
5 remainder, which the Department shall transfer into the Tax
6 Compliance and Administration Fund. The Department, at the
7 time of each monthly disbursement to the counties, shall
8 prepare and certify the State Comptroller the amount to be
9 transferred into the Tax Compliance and Administration Fund
10 under this Section. Within 10 days after receipt by the
11 Comptroller of the disbursement certification to the counties
12 and the Tax Compliance and Administration Fund provided for in
13 this Section to be given to the Comptroller by the Department,
14 the Comptroller shall cause the orders to be drawn for the
15 respective amounts in accordance with the directions contained
16 in the certification.

17 (f) An ordinance or resolution imposing or discontinuing a
18 tax under this Section or effecting a change in the rate
19 thereof that is adopted on or after June 25, 2019 (the
20 effective date of Public Act 101-27) and for which a certified
21 copy is filed with the Department on or before April 1, 2020
22 shall be administered and enforced by the Department beginning
23 on July 1, 2020. For ordinances filed with the Department
24 after April 1, 2020, an ordinance or resolution imposing or
25 discontinuing a tax under this Section or effecting a change
26 in the rate thereof shall either (i) be adopted and a certified

1 copy thereof filed with the Department on or before the first
2 day of April, whereupon the Department shall proceed to
3 administer and enforce this Section as of the first day of July
4 next following the adoption and filing; or (ii) be adopted and
5 a certified copy thereof filed with the Department on or
6 before the first day of October, whereupon the Department
7 shall proceed to administer and enforce this Section as of the
8 first day of January next following the adoption and filing.

9 (g) Notwithstanding any provision in this Section to the
10 contrary, if an ordinance or resolution imposing a tax under
11 this Section was adopted on or before October 1, 2020 and a
12 certified copy thereof was filed with the Department of
13 Revenue on or before November 1, 2020, then the Department
14 shall proceed to administer and enforce this Section as of May
15 1, 2021 for such ordinances or resolutions.

16 (Source: P.A. 101-27, eff. 6-25-19; 101-363, eff. 8-9-19;
17 101-593, eff. 12-4-19; 102-2, eff. 4-2-21.)

18 Section 10. The Illinois Municipal Code is amended by
19 changing Section 8-11-23 as follows:

20 (65 ILCS 5/8-11-23)

21 Sec. 8-11-23. Municipal Cannabis Retailers' Occupation Tax
22 Law.

23 (a) This Section may be referred to as the Municipal
24 Cannabis Retailers' Occupation Tax Law. The corporate

1 authorities of any municipality may, by ordinance, impose a
2 tax upon all persons engaged in the business of selling
3 cannabis, other than cannabis purchased under the
4 Compassionate Use of Medical Cannabis Program Act, at retail
5 in the municipality on the gross receipts from these sales
6 made in the course of that business. A certified copy of an
7 ordinance imposing, or ordinance or resolution changing or
8 discontinuing, a tax under this Section shall be filed with
9 the Department of Revenue and proof of filing shall be
10 maintained by the municipality for at least 5 years. If
11 imposed, the tax may not exceed 3% of the gross receipts from
12 these sales and shall only be imposed in 1/4% increments. The
13 tax imposed under this Section and all civil penalties that
14 may be assessed as an incident of the tax shall be collected
15 and enforced by the Department of Revenue. The Department of
16 Revenue shall have full power to administer and enforce this
17 Section; to collect all taxes and penalties due hereunder; to
18 dispose of taxes and penalties so collected in the manner
19 hereinafter provided; and to determine all rights to credit
20 memoranda arising on account of the erroneous payment of tax
21 or penalty under this Section. In the administration of and
22 compliance with this Section, the Department and persons who
23 are subject to this Section shall have the same rights,
24 remedies, privileges, immunities, powers and duties, and be
25 subject to the same conditions, restrictions, limitations,
26 penalties and definitions of terms, and employ the same modes

1 of procedure, as are prescribed in Sections 1, 1a, 1d, 1e, 1f,
2 1i, 1j, 1k, 1m, 1n, 2 through 2-65 (in respect to all
3 provisions therein other than the State rate of tax), 2a, 2b,
4 2c, 2i, 3 (except as to the disposition of taxes and penalties
5 collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k,
6 5l, 6, 6a, 6b, 6c, 6d, 7, 8, 9, 10, 11, 11a, 12, and 13 of the
7 Retailers' Occupation Tax Act and Section 3-7 of the Uniform
8 Penalty and Interest Act, as fully as if those provisions were
9 set forth herein.

10 (b) Persons subject to any tax imposed under the authority
11 granted in this Section may reimburse themselves for their
12 seller's tax liability hereunder by separately stating that
13 tax as an additional charge, which charge may be stated in
14 combination, in a single amount, with any State tax that
15 sellers are required to collect.

16 (c) Whenever the Department of Revenue determines that a
17 refund should be made under this Section to a claimant instead
18 of issuing a credit memorandum, the Department of Revenue
19 shall notify the State Comptroller, who shall cause the order
20 to be drawn for the amount specified and to the person named in
21 the notification from the Department of Revenue.

22 (d) The Department of Revenue shall immediately pay over
23 to the State Treasurer, ex officio, as trustee, all taxes and
24 penalties collected hereunder for deposit into the Local
25 Cannabis Retailers' Occupation Tax Trust Fund.

26 (e) On or before the 25th day of each calendar month, the

1 Department of Revenue shall prepare and certify to the
2 Comptroller the amount of money to be disbursed from the Local
3 Cannabis Retailers' Occupation Tax Trust Fund to
4 municipalities from which retailers have paid taxes or
5 penalties under this Section during the second preceding
6 calendar month. The amount to be paid to each municipality
7 shall be the amount (not including credit memoranda) collected
8 under this Section from sales made in the municipality during
9 the second preceding calendar month, plus an amount the
10 Department of Revenue determines is necessary to offset any
11 amounts that were erroneously paid to a different taxing body,
12 and not including an amount equal to the amount of refunds made
13 during the second preceding calendar month by the Department
14 on behalf of such municipality, and not including any amount
15 that the Department determines is necessary to offset any
16 amounts that were payable to a different taxing body but were
17 erroneously paid to the municipality, less 1.5% of the
18 remainder, which the Department shall transfer into the Tax
19 Compliance and Administration Fund. The Department, at the
20 time of each monthly disbursement to the municipalities, shall
21 prepare and certify to the State Comptroller the amount to be
22 transferred into the Tax Compliance and Administration Fund
23 under this Section. Within 10 days after receipt by the
24 Comptroller of the disbursement certification to the
25 municipalities and the Tax Compliance and Administration Fund
26 provided for in this Section to be given to the Comptroller by

1 the Department, the Comptroller shall cause the orders to be
2 drawn for the respective amounts in accordance with the
3 directions contained in the certification.

4 (f) An ordinance or resolution imposing or discontinuing a
5 tax under this Section or effecting a change in the rate
6 thereof that is adopted on or after June 25, 2019 (the
7 effective date of Public Act 101-27) and for which a certified
8 copy is filed with the Department on or before April 1, 2020
9 shall be administered and enforced by the Department beginning
10 on July 1, 2020. For ordinances filed with the Department
11 after April 1, 2020, an ordinance or resolution imposing or
12 discontinuing a tax under this Section or effecting a change
13 in the rate thereof shall either (i) be adopted and a certified
14 copy thereof filed with the Department on or before the first
15 day of April, whereupon the Department shall proceed to
16 administer and enforce this Section as of the first day of July
17 next following the adoption and filing; or (ii) be adopted and
18 a certified copy thereof filed with the Department on or
19 before the first day of October, whereupon the Department
20 shall proceed to administer and enforce this Section as of the
21 first day of January next following the adoption and filing.

22 (Source: P.A. 101-27, eff. 6-25-19; 101-593, eff. 12-4-19.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.