

SB0120



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB0120

Introduced 2/3/2021, by Sen. Patrick J. Joyce

SYNOPSIS AS INTRODUCED:

65 ILCS 5/8-11-2.3

Amends the Illinois Municipal Code. Provides that all municipalities (currently, only municipalities in a county with a population of over 3,000,000 inhabitants) may impose a motor fuel tax. Effective immediately.

LRB102 02718 AWJ 12721 b

FISCAL 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.
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 defined in the Motor
13 Fuel Tax Law, at retail for the operation of motor vehicles
14 upon public highways or for the operation of recreational
15 watercraft upon waterways. The tax may be imposed, in one cent
16 increments, at a rate not to exceed \$0.03 per gallon of motor
17 fuel sold at retail within the municipality for the purpose of
18 use or consumption and not for the purpose of resale. The tax
19 may not be imposed under this Section on aviation fuel, as
20 defined in Section 3 of the Retailers' Occupation Tax Act.

21 Persons subject to any tax imposed under the authority
22 granted in this Section may reimburse themselves for their
23 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 State tax which sellers
3 are required to collect under the Use Tax Act, pursuant to such
4 bracket schedules as the Department may prescribe.

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

18 Whenever the Department determines that a refund shall be
19 made under this Section to a claimant instead of issuing a
20 credit memorandum, the Department shall notify the State
21 Comptroller, who shall cause the order to be drawn for the
22 amount specified, and to the person named, in the notification
23 from the Department. The refund shall be paid by the State
24 Treasurer out of the Municipal Motor Fuel Tax Fund.

25 The Department shall immediately pay over to the State
26 Treasurer, ex officio, as trustee, all taxes and penalties

1 collected under this Section. Those taxes and penalties shall
2 be deposited into the Municipal Motor Fuel Tax Fund, a trust
3 fund created in the State treasury. Moneys in the Municipal
4 Motor Fuel Tax Fund shall be used to make payments to
5 municipalities and for the payment of refunds under this
6 Section.

7 On or before the 25th day of each calendar month, the
8 Department shall prepare and certify to the State Comptroller
9 the disbursement of stated sums of money to named
10 municipalities for which taxpayers have paid taxes or
11 penalties hereunder to the Department during the second
12 preceding calendar month. The amount to be paid to each
13 municipality shall be the amount (not including credit
14 memoranda) collected under this Section from retailers within
15 the municipality during the second preceding calendar month by
16 the Department, plus an amount the Department determines is
17 necessary to offset amounts that were erroneously paid to a
18 different municipality, and not including an amount equal to
19 the amount of refunds made during the second preceding
20 calendar month by the Department on behalf of the
21 municipality, and not including any amount that the Department
22 determines is necessary to offset any amounts that were
23 payable to a different municipality but were erroneously paid
24 to the municipality, less 1.5% of the remainder, which the
25 Department shall transfer into the Tax Compliance and
26 Administration Fund. The Department, at the time of each

1 monthly disbursement, shall prepare and certify to the State
2 Comptroller the amount to be transferred into the Tax
3 Compliance and Administration Fund under this Section. Within
4 10 days after receipt by the Comptroller of the disbursement
5 certification to the municipalities and the Tax Compliance and
6 Administration Fund provided for in this Section to be given
7 to the Comptroller by the Department, the Comptroller shall
8 cause the orders to be drawn for the respective amounts in
9 accordance with the directions contained in the certification.

10 Nothing in this Section shall be construed to authorize a
11 municipality to impose a tax upon the privilege of engaging in
12 any business which under the Constitution of the United States
13 may not be made the subject of taxation by this State.

14 An ordinance or resolution imposing or discontinuing the
15 tax under this Section or effecting a change in the rate
16 thereof shall either: (i) be adopted and a certified copy
17 thereof filed with the Department on or before the first day of
18 April, whereupon the Department shall proceed to administer
19 and enforce this Section as of the first day of July next
20 following the adoption and filing; or (ii) be adopted and a
21 certified copy thereof filed with the Department on or before
22 the first day of October, whereupon the Department shall
23 proceed to administer and enforce this Section as of the first
24 day of January next following the adoption and filing.

25 An ordinance adopted in accordance with the provisions of
26 this Section in effect before the effective date of this

1 amendatory Act of the 101st General Assembly shall be deemed
2 to impose the tax in accordance with the provisions of this
3 Section as amended by this amendatory Act of the 101st General
4 Assembly and shall be administered by the Department of
5 Revenue in accordance with the provisions of this Section as
6 amended by this amendatory Act of the 101st General Assembly;
7 provided that, on or before October 1, 2020, the municipality
8 adopts and files a certified copy of a superseding ordinance
9 that imposes the tax in accordance with the provisions of this
10 Section as amended by this amendatory Act of the 101st General
11 Assembly. If a superseding ordinance is not so adopted and
12 filed, then the tax imposed in accordance with the provisions
13 of this Section in effect before the effective date of this
14 amendatory Act of the 101st General Assembly shall be
15 discontinued on January 1, 2021.

16 This Section shall be known and may be cited as the
17 Municipal Motor Fuel Tax Law.

18 (Source: P.A. 101-32, eff. 6-28-19; 101-604, eff. 12-13-19.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.