

SB2573



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2573

Introduced 2/26/2021, by Sen. Melinda Bush

SYNOPSIS AS INTRODUCED:

20 ILCS 2505/2505-805 new
35 ILCS 120/2a

from Ch. 120, par. 441a

Amends the Retailers' Occupation Tax Act. Provides that, if a person who is licensed as a retailer of alcoholic liquor under the Liquor Control Act has had the renewal of his or her certificate of registration denied or revoked by the Department of Revenue, then distributors licensed under the Liquor Control Act are prohibited from selling alcoholic liquor to that retailer, and that retailer is prohibited from purchasing alcoholic liquor from distributors, pending notification by the Department of Revenue that the denied renewal or revocation has been resolved to the Department of Revenue's satisfaction. Amends the Department of Revenue Law of the Civil Administrative Code of Illinois. Requires applicants for a certificate of registration to pay a nonrefundable application fee of \$30.

LRB102 16049 HLH 21421 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 Department of Revenue Law of the Civil
5 Administrative Code of Illinois is amended by adding Section
6 2505-805 as follows:

7 (20 ILCS 2505/2505-805 new)

8 Sec. 2505-805. Certificate of registration application
9 fee. For applications for a certificate of registration for
10 Retailers' Occupation Tax, Service Occupation Tax, Use Tax, or
11 Service Use Tax filed on or after July 1, 2022 under Section 2a
12 of the Retailers' Occupation Tax Act, each applicant shall pay
13 a nonrefundable application fee of \$30. The fee shall be in
14 addition to any other registration fee or any license fee
15 authorized to be charged by statute. Each applicant shall pay
16 the fee to the Department at the time of submitting the
17 application, or at such other time as required by the
18 Department. The collection of the fee shall be implemented by
19 the Department in a manner that allows the Department to
20 continue to efficiently receive and process registration
21 applications. The fee shall be deposited into the Tax
22 Compliance and Administration Fund.

1 Section 10. The Retailers' Occupation Tax Act is amended
2 by changing Section 2a as follows:

3 (35 ILCS 120/2a) (from Ch. 120, par. 441a)

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

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

15 The Department shall provide by rule for an expedited
16 business registration process for remote retailers required to
17 register and file under subsection (b) of Section 2 who use a
18 certified service provider to file their returns under this
19 Act. Such expedited registration process shall allow the
20 Department to register a taxpayer based upon the same
21 registration information required by the Streamlined Sales Tax
22 Governing Board for states participating in the Streamlined
23 Sales Tax Project.

24 The Department may deny a certificate of registration to
25 any applicant if a person who is named as the owner, a partner,
26 a manager or member of a limited liability company, or a

1 corporate officer of the applicant on the application for the
2 certificate of registration is or has been named as the owner,
3 a partner, a manager or member of a limited liability company,
4 or a corporate officer on the application for the certificate
5 of registration of another retailer that is in default for
6 moneys due under this Act or any other tax or fee Act
7 administered by the Department. For purposes of this paragraph
8 only, in determining whether a person is in default for moneys
9 due, the Department shall include only amounts established as
10 a final liability within the 20 years prior to the date of the
11 Department's notice of denial of a certificate of
12 registration.

13 The Department may require an applicant for a certificate
14 of registration hereunder to, at the time of filing such
15 application, furnish a bond from a surety company authorized
16 to do business in the State of Illinois, or an irrevocable bank
17 letter of credit or a bond signed by 2 personal sureties who
18 have filed, with the Department, sworn statements disclosing
19 net assets equal to at least 3 times the amount of the bond to
20 be required of such applicant, or a bond secured by an
21 assignment of a bank account or certificate of deposit, stocks
22 or bonds, conditioned upon the applicant paying to the State
23 of Illinois all moneys becoming due under this Act and under
24 any other State tax law or municipal or county tax ordinance or
25 resolution under which the certificate of registration that is
26 issued to the applicant under this Act will permit the

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

1 by the Department shall be such as, in its opinion, will
2 protect the State of Illinois against failure to pay the
3 amount which may become due from the applicant under this Act
4 and under any other State tax law or municipal or county tax
5 ordinance or resolution under which the certificate of
6 registration that is issued to the applicant under this Act
7 will permit the applicant to engage in business without
8 registering separately under such other law, ordinance or
9 resolution, but the amount of the security required by the
10 Department shall not exceed three times the amount of the
11 applicant's average monthly tax liability, or \$50,000.00,
12 whichever amount is lower.

13 No certificate of registration under this Act shall be
14 issued by the Department until the applicant provides the
15 Department with satisfactory security, if required, as herein
16 provided for.

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

1 he engages in the business of selling tangible personal
2 property at retail in this State.

3 No certificate of registration issued prior to July 1,
4 2017 to a taxpayer who files returns required by this Act on a
5 monthly basis or renewed prior to July 1, 2017 by a taxpayer
6 who files returns required by this Act on a monthly basis shall
7 be valid after the expiration of 5 years from the date of its
8 issuance or last renewal. No certificate of registration
9 issued on or after July 1, 2017 to a taxpayer who files returns
10 required by this Act on a monthly basis or renewed on or after
11 July 1, 2017 by a taxpayer who files returns required by this
12 Act on a monthly basis shall be valid after the expiration of
13 one year from the date of its issuance or last renewal. The
14 expiration date of a sub-certificate of registration shall be
15 that of the certificate of registration to which the
16 sub-certificate relates. Prior to July 1, 2017, a certificate
17 of registration shall automatically be renewed, subject to
18 revocation as provided by this Act, for an additional 5 years
19 from the date of its expiration unless otherwise notified by
20 the Department as provided by this paragraph. On and after
21 July 1, 2017, a certificate of registration shall
22 automatically be renewed, subject to revocation as provided by
23 this Act, for an additional one year from the date of its
24 expiration unless otherwise notified by the Department as
25 provided by this paragraph.

26 Where a taxpayer to whom a certificate of registration is

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

23 The Department may in its discretion approve renewal by an
24 applicant who is in default if, at the time of application for
25 renewal, the applicant files all of the delinquent returns or
26 pays to the Department such percentage of the defaulted amount

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

15 The Department may suspend a certificate of registration
16 if the Department finds that the person to whom the
17 certificate of registration has been issued knowingly sold
18 contraband cigarettes.

19 A certificate of registration issued under this Act more
20 than 5 years before January 1, 1990 (the effective date of
21 Public Act 86-383) shall expire and be subject to the renewal
22 provisions of this Section on the next anniversary of the date
23 of issuance of such certificate which occurs more than 6
24 months after January 1, 1990 (the effective date of Public Act
25 86-383). A certificate of registration issued less than 5
26 years before January 1, 1990 (the effective date of Public Act

1 86-383) shall expire and be subject to the renewal provisions
2 of this Section on the 5th anniversary of the issuance of the
3 certificate.

4 If a person who is licensed as a retailer of alcoholic
5 liquor under the Liquor Control Act has had the renewal of his
6 or her certificate of registration denied under this Section
7 or has had his or her certificate of registration revoked
8 under Section 2b, then distributors licensed under the Liquor
9 Control Act are prohibited from selling alcoholic liquor to
10 that retailer and that retailer is prohibited from purchasing
11 alcoholic liquor from distributors, pending notification by
12 the Department of Revenue that the denied renewal or
13 revocation has been resolved to the Department's satisfaction.

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

24 If the applicant will sell tangible personal property at
25 retail through vending machines, the Department shall furnish
26 him with a sub-certificate of registration for each such

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

17 Where the same person engages in 2 or more businesses of
18 selling tangible personal property at retail in this State,
19 which businesses are substantially different in character or
20 engaged in under different trade names or engaged in under
21 other substantially dissimilar circumstances (so that it is
22 more practicable, from an accounting, auditing or bookkeeping
23 standpoint, for such businesses to be separately registered),
24 the Department may require or permit such person (subject to
25 the same requirements concerning the furnishing of security as
26 those that are provided for hereinbefore in this Section as to

1 each application for a certificate of registration) to apply
2 for and obtain a separate certificate of registration for each
3 such business or for any of such businesses, under a single
4 certificate of registration supplemented by related
5 sub-certificates of registration.

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

26 Every Prior Continuous Compliance taxpayer shall be exempt

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

1 liability.

2 No certificate of registration shall be issued to any
3 person who is in default to the State of Illinois for moneys
4 due under this Act or under any other State tax law or
5 municipal or county tax ordinance or resolution under which
6 the certificate of registration that is issued to the
7 applicant under this Act will permit the applicant to engage
8 in business without registering separately under such other
9 law, ordinance or resolution.

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

20 With respect to security other than bonds (upon which the
21 Department may sue in the event of a forfeiture), if the
22 taxpayer fails to pay, when due, any amount whose payment such
23 security guarantees, the Department shall, after such
24 liability is admitted by the taxpayer or established by the
25 Department through the issuance of a final assessment that has
26 become final under the law, convert the security which that

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

25 The Department shall discharge any surety and shall
26 release and return any security deposited, assigned, pledged

1 or otherwise provided to it by a taxpayer under this Section
2 within 30 days after:

3 (1) such taxpayer becomes a Prior Continuous
4 Compliance taxpayer; or

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

22 (Source: P.A. 100-302, eff. 8-24-17; 100-303, eff. 8-24-17;
23 100-863, eff. 8-14-18; 101-31, eff. 6-28-19.)