



Rep. Joe C. Sosnowski

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10300SB3282ham001

LRB103 34197 HLH 72839 a

1 AMENDMENT TO SENATE BILL 3282

2 AMENDMENT NO. _____. Amend Senate Bill 3282 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Retailers' Occupation Tax Act is amended
5 by changing Section 2-10.5 as follows:

6 (35 ILCS 120/2-10.5)

7 Sec. 2-10.5. Direct payment program; purchaser's providing
8 of permit to retailer; retailer relieved of collecting use tax
9 and local retailers' occupation tax reimbursements from
10 purchaser; direct payment of retailers' occupation tax and
11 local retailers' occupation tax by purchaser.

12 (a) Beginning on July 1, 2001 there is established in this
13 State a Direct Payment Program to be administered by the
14 Department. The Department shall issue a Direct Pay Permit to
15 applicants who have been approved to participate in the Direct
16 Payment Program. Each person applying to participate in the

1 Direct Payment Program must demonstrate (1) the applicant's
2 ability to comply with the retailers' occupation tax laws and
3 the use tax laws in effect in this State and that the
4 applicant's accounting system will reflect the proper amount
5 of tax due, (2) that the applicant has a valid business purpose
6 for participating in the Direct Payment Program, and (3) how
7 the applicant's participation in the Direct Payment Program
8 will benefit tax compliance. Application shall be made on
9 forms provided by the Department and shall contain information
10 as the Department may reasonably require. The Department shall
11 approve or deny an applicant within 90 days after the
12 Department's receipt of the application, unless the Department
13 makes a written request for additional information from the
14 applicant.

15 (b) A person who has been approved for the Direct Payment
16 Program and who has been issued a Direct Pay Permit by the
17 Department is relieved of paying tax to a retailer when
18 purchasing tangible personal property for use or consumption,
19 except as provided in subsection (d), by providing that
20 retailer a copy of that Direct Pay Permit. A retailer who
21 accepts a copy of a customer's Direct Pay Permit is relieved of
22 the obligation to remit the tax imposed by this Act on the
23 transaction. References in this Section to "the tax imposed by
24 this Act" include any local occupation taxes administered by
25 the Department that would be incurred on the retail sale.

26 (c) Once the holder of a Direct Pay Permit uses that Permit

1 to relieve the Permit holder from paying tax to a particular
2 retailer, the holder must use its Permit for all purchases,
3 except as provided in subsection (d), from that retailer for
4 so long as the Permit is valid.

5 (d) Direct Pay Permits are not valid and shall not be used
6 for sales or purchases of:

7 (1) food or beverage;

8 (2) tangible personal property required to be titled
9 or registered with an agency of government; or

10 (3) any transactions subject to the Service Occupation
11 Tax Act or Service Use Tax Act.

12 (e) Direct Pay Permits are not assignable and are not
13 transferable. As an illustration, a construction contractor
14 shall not make purchases using a customer's Direct Pay Permit.

15 (f) A Direct Pay Permit is valid until it is revoked by the
16 Department or until the holder notifies the Department in
17 writing that the holder is withdrawing from the Direct Payment
18 Program. A Direct Pay Permit can be revoked by the Department,
19 after notice and hearing, if the holder violates any provision
20 of this Act, any provision of the Illinois Use Tax Act, or any
21 provision of any Act imposing a local retailers' occupation
22 tax administered by the Department.

23 (g) The holder of a Direct Pay Permit who has been relieved
24 of paying tax to a retailer on a purchase for use or
25 consumption by representing to that retailer that it would pay
26 all applicable taxes directly to the Department shall pay

1 those taxes to the Department not later than the 20th day of
2 the month following the month in which the purchase was made.
3 Permit holders making such purchases are subject to all
4 provisions of this Act, and the tax must be reported and paid
5 as retailers' occupation tax in the same manner that the
6 retailer from whom the purchases were made would have reported
7 and paid it, including any local retailers' occupation taxes
8 applicable to that retail sale. Notwithstanding any other
9 provision of this Act, Permit holders shall make all payments
10 to the Department through the use of electronic funds
11 transfer.

12 (h) By March 31, 2025, and by March 31 of each year
13 thereafter, each holder of a Direct Pay Permit shall review
14 its purchase activity to verify that the purchases made during
15 the 12-month period ending on December 31 of the immediately
16 preceding calendar year were sourced correctly and that the
17 correct tax rate was applied. If the holder of the Direct Pay
18 Permit discovers an error in sourcing or the tax rate during
19 the review process, then, by April 20 of the calendar year in
20 which the review under this subsection occurs, the holder of
21 the Direct Pay Permit shall file an amended return to correct
22 the error. If, for any 12-month review period under this
23 subsection, a holder of a Direct Pay Permit fails to properly
24 verify purchase activity and correct sourcing and tax rate
25 errors as required by this subsection and the rules adopted by
26 the Department, then the Direct Pay Permit holder is liable to

1 pay a penalty of \$6,000 to the Department, for deposit into the
2 Tax Compliance and Administration Fund. However, the penalty
3 under this subsection shall not be imposed if the Department
4 finds that at least 95% of the Direct Pay Permit holder's
5 transactions for the applicable 12-month review period are
6 correctly sourced and the correct taxes have been remitted or
7 the permit holder acted with ordinary business care and
8 prudence. For the purposes of this subsection, ordinary
9 business care and prudence shall be determined in accordance
10 with Section 3-8 of the Uniform Penalty and Interest Act. The
11 Department may adopt rules to administer the penalties under
12 this Section.

13 (Source: P.A. 92-484, eff. 8-23-01.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law."