



Rep. Barbara Flynn Currie

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1 AMENDMENT TO SENATE BILL 35

2 AMENDMENT NO. _____. Amend Senate Bill 35, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 1. Short title. This Act may be cited as the
6 Watercraft Use Tax Law.

7 Section 5. Definitions. For the purposes of this Law:

8 "Department" means the Department of Revenue.

9 "Purchase price" means the reasonable consideration paid
10 for a watercraft valued in money whether received in money or
11 otherwise, including, but not limited to, cash, credits,
12 property, and services, and including the value of any motor
13 sold with, or in conjunction with, the watercraft. Except in
14 the case of transfers between immediate family members,
15 reasonable consideration ordinarily means the fair market
16 value on the date the watercraft or the share of the watercraft
17 was acquired or the date the watercraft was brought into this
18 State, whichever is later, unless the taxpayer can demonstrate
19 that a different value is reasonable. In the case of transfers
20 between immediate family members, reasonable consideration
21 ordinarily means the consideration actually paid, unless it
22 appears from the facts and circumstances that the primary
23 motivation of the transfer was the avoidance of tax.

24 "Watercraft" means:

1 (1) Class 1, Class 2, Class 3, and Class 4 watercraft,
2 as defined in Section 3-2 of the Boat Registration and
3 Safety Act;

4 (2) personal watercraft, as defined in Section 1-2 of
5 the Boat Registration and Safety Act; and

6 (3) any boat equipped with an inboard motor.

7 Section 10. Tax imposed. A tax is hereby imposed on the
8 privilege of using, in this State, any watercraft acquired by
9 gift, transfer, or purchase after June 30, 2004. This tax does
10 not apply if: (i) the use of the watercraft is otherwise taxed
11 under the Use Tax Act; (ii) the watercraft is bought and used
12 by a governmental agency or a society, association, foundation,
13 or institution organized and operated exclusively for
14 charitable, religious, or educational purposes and that entity
15 has been issued an exemption identification number under
16 Section 1g of the Retailers' Occupation Tax Act; (iii) the use
17 of the watercraft is not subject to the Use Tax Act by reason
18 of subsection (a), (b), (c), (d), or (e) of Section 3-55 of
19 that Act dealing with the prevention of actual or likely
20 multi-state taxation; or (iv) the transfer is a gift to a
21 beneficiary in the administration of an estate and the
22 beneficiary is a surviving spouse.

23 Section 15. Rate of tax. The rate of tax is 6.25% of the
24 purchase price for each watercraft that is subject to tax under
25 this Law. When an ownership share of a watercraft is acquired,
26 the tax is imposed on the purchase price of that share. All
27 owners are jointly and severally liable for any tax due as a
28 result of the purchase, gift, or transfer of an ownership share
29 of the watercraft.

30 Section 20. Returns.

31 (a) The purchaser, transferee, or donee shall file with the

1 Department a return signed by the purchaser, transferee, or
2 donee on a form prescribed by the Department. The return shall
3 contain a verification in substantially the following form and
4 such other information as the Department may reasonably
5 require:

6 VERIFICATION

7 I declare that I have examined this return and, to the best
8 of my knowledge, it is true, correct, and complete. I
9 understand that the penalty for willfully filing a false
10 return is a fine not to exceed \$1,000 or imprisonment in a
11 penal institution other than the penitentiary not to exceed
12 one year, or both a fine and imprisonment.

13 (b) The return and payment from the purchaser, transferee,
14 or donee shall be submitted to the Department within 30 days
15 after the date of purchase, donation, or other transfer or the
16 date the watercraft is brought into this State, whichever is
17 later. Payment of tax is a condition to securing certificate of
18 title for the watercraft from the Department of Natural
19 Resources. When a purchaser, transferee, or donee pays the tax
20 imposed by Section 10 of this Law, the Department (upon request
21 therefor from the purchaser, transferee, or donee) shall issue
22 an appropriate receipt to the purchaser, transferee, or donee
23 showing that he or she has paid the tax to the Department. The
24 receipt shall be sufficient to relieve the purchaser,
25 transferee, or donee from further liability for the tax to
26 which the receipt may refer.

27 Section 25. Filing false or incomplete return. Any person
28 required to file a return under this Law who willfully files a
29 false or incomplete return is guilty of a Class A misdemeanor.

30 Section 30. Determining purchase price. For the purpose of
31 assisting in determining the validity of the purchase price
32 reported on returns filed with the Department, the Department

1 may furnish the following information to persons with whom the
2 Department has contracted for service related to making that
3 determination: (i) the purchase price stated on the return;
4 (ii) the watercraft identification number; (iii) the year, the
5 make, and the model name or number of the watercraft; (iv) the
6 purchase date; and (v) the hours of operation.

7 Section 35. Powers of Department. The Department has full
8 power to: (i) administer and enforce this Law; (ii) collect all
9 taxes, penalties, and interest due under this Law; (iii)
10 dispose of taxes, penalties, and interest so collected in the
11 manner set forth in this Law; and (iv) determine all rights to
12 credit memoranda or refunds arising on account of the erroneous
13 payment of tax, penalty, or interest under this Law. In the
14 administration of, and compliance with, this Law, the
15 Department and persons who are subject to this Law have the
16 same rights, remedies, privileges, immunities, powers, and
17 duties, and are subject to the same conditions, restrictions,
18 limitations, penalties, and definitions of terms, and employ
19 the same modes of procedure, as are prescribed in the Use Tax
20 Act (except for the provisions of Section 3-70), that are not
21 inconsistent with this Law, as fully as if the provisions of
22 the Use Tax Act were set forth in this Law. In addition to any
23 other penalties imposed under law, any person convicted of
24 violating the provisions of this Law shall be assessed a fine
25 of \$1,000.

26 Section 40. Payments to Local Government Distributive Fund
27 and General Revenue Fund. The Department shall each month, upon
28 collecting any taxes as provided in this Law, pay 20% of the
29 money collected into the Local Government Distributive Fund, a
30 special fund in the State treasury, and 80% into the General
31 Revenue Fund.

1 Section 45. Rules. The Department has the authority to
2 adopt such rules as are reasonable and necessary to implement
3 the provisions of this Law.

4 Section 90. The Retailers' Occupation Tax Act is amended by
5 changing Section 1c as follows:

6 (35 ILCS 120/1c) (from Ch. 120, par. 440c)

7 Sec. 1c. A person who is engaged in the business of leasing
8 or renting motor vehicles or, beginning July 1, 2003, aircraft
9 or, beginning July 1, 2004, watercraft to others and who, in
10 connection with such business sells any used motor vehicle, ~~or~~
11 aircraft, or watercraft to a purchaser for his use and not for
12 the purpose of resale, is a retailer engaged in the business of
13 selling tangible personal property at retail under this Act to
14 the extent of the value of the vehicle or aircraft sold. For
15 the purpose of this Section "motor vehicle" has the meaning
16 prescribed in Section 1-157 of the Illinois Vehicle Code, as
17 now or hereafter amended. For the purpose of this Section
18 "aircraft" has the meaning prescribed in Section 3 of the
19 Illinois Aeronautics Act. For the purpose of this Section,
20 "watercraft" has the meaning prescribed in Section 5 of the
21 Watercraft Use Tax Law. (Nothing provided herein shall affect
22 liability incurred under this Act because of the sale at retail
23 of such motor vehicles, ~~or~~ aircraft, or watercraft to a
24 lessor.)

25 (Source: P.A. 93-24, eff. 6-20-03.)

26 Section 95. The Boat Registration and Safety Act is amended
27 by changing Section 3A-5 as follows:

28 (625 ILCS 45/3A-5) (from Ch. 95 1/2, par. 313A-5)

29 Sec. 3A-5. Certificate of title - Issuance - Records.

30 (a) The Department of Natural Resources shall file each

1 application received and, when satisfied as to its genuineness
2 and regularity, and that no tax imposed by the "Use Tax Act" or
3 the Watercraft Use Tax Law is owed as evidenced by the receipt
4 for payment or determination of exemption from the Department
5 of Revenue provided for in Section 3A-3 of this Article, and
6 that the applicant is entitled to the issuance of a certificate
7 of title, shall issue a certificate of title.

8 (b) The Department of Natural Resources shall maintain a
9 record of all certificates of title issued under a distinctive
10 title number assigned to the watercraft and, in the discretion
11 of the Department, in any other method determined.

12 (Source: P.A. 89-445, eff. 2-7-96.)

13 Section 999. Effective date. This Act takes effect July 1,
14 2004."