



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/6/2004, by Don Harmon

SYNOPSIS AS INTRODUCED:

35 ILCS 105/14.1 new
35 ILCS 110/15.1 new
35 ILCS 115/15.1 new
35 ILCS 120/13.1 new

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Imposes a penalty in the amount of 200% of any amount of the proceeds of mandatory service charges separately stated on customers' bills for purchase and consumption of food and beverages, to the extent that the proceeds of the service charge are not turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting, or cleaning up the food or beverage function with respect to which the service charge is imposed. Effective January 1, 2005.

LRB093 20402 SJM 46180 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning taxes.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Use Tax Act is amended by adding Section
5 14.1 as follows:

6 (35 ILCS 105/14.1 new)

7 Sec. 14.1. Penalty for mandatory services charges not
8 passed on to employees. Two hundred percent of any amount of
9 the proceeds of mandatory service charges separately stated on
10 customers' bills for the purchase and consumption of food and
11 beverages purchased at retail from a retailer, to the extent
12 that the proceeds of the service charge are not turned over as
13 tips or as a substitute for tips to the employees who
14 participate directly in preparing, serving, hosting, or
15 cleaning up the food or beverage function with respect to which
16 the service charge is imposed, shall be paid to the Department
17 as a penalty. The penalty shall be reported and remitted at the
18 same time as and along with the next return required to be
19 submitted to the Department under this Act after the mandatory
20 service charge is collected by the taxpayer.

21 Section 10. The Service Use Tax Act is amended by adding
22 Section 15.1 as follows:

23 (35 ILCS 110/15.1 new)

24 Sec. 15.1. Penalty for mandatory services charges not
25 passed on to employees. Two hundred percent of any amount of
26 the proceeds of mandatory service charges separately stated on
27 customers' bills for the purchase and consumption of food and
28 beverages acquired as an incident to the purchase of a service
29 from a serviceman, to the extent that the proceeds of the
30 service charge are not turned over as tips or as a substitute

1 for tips to the employees who participate directly in
2 preparing, serving, hosting, or cleaning up the food or
3 beverage function with respect to which the service charge is
4 imposed, shall be paid to the Department as a penalty. The
5 penalty shall be reported and remitted at the same time as and
6 along with the next return required to be submitted to the
7 Department under this Act after the mandatory service charge is
8 collected by the taxpayer.

9 Section 15. The Service Occupation Tax Act is amended by
10 adding Section 15.1 as follows:

11 (35 ILCS 115/15.1 new)

12 Sec. 15.1. Penalty for mandatory services charges not
13 passed on to employees. Two hundred percent of any amount of
14 the proceeds of mandatory service charges separately stated on
15 customers' bills for the purchase and consumption of food and
16 beverages, to the extent that the proceeds of the service
17 charge are not turned over as tips or as a substitute for tips
18 to the employees who participate directly in preparing,
19 serving, hosting, or cleaning up the food or beverage function
20 with respect to which the service charge is imposed, shall be
21 paid to the Department as a penalty. The penalty shall be
22 reported and remitted at the same time as and along with the
23 next return required to be submitted to the Department under
24 this Act after the mandatory service charge is collected by the
25 taxpayer.

26 Section 20. The Retailers' Occupation Tax Act is amended by
27 adding Section 13.1 as follows:

28 (35 ILCS 120/13.1 new)

29 Sec. 13.1. Penalty for mandatory services charges not
30 passed on to employees. Two hundred percent of any amount of
31 the proceeds of mandatory service charges separately stated on
32 customers' bills for the purchase and consumption of food and

1 beverages, to the extent that the proceeds of the service
2 charge are not turned over as tips or as a substitute for tips
3 to the employees who participate directly in preparing,
4 serving, hosting, or cleaning up the food or beverage function
5 with respect to which the service charge is imposed, shall be
6 paid to the Department as a penalty. The penalty shall be
7 reported and remitted at the same time as and along with the
8 next return required to be submitted to the Department under
9 this Act after the mandatory service charge is collected by the
10 taxpayer.

11 Section 99. Effective date. This Act takes effect on
12 January 1, 2005.