



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB3185

Introduced 2/22/2005, by Rep. Tom Cross

SYNOPSIS AS INTRODUCED:

65 ILCS 5/8-11-1.3

from Ch. 24, par. 8-11-1.3

Amends the Non-Home Rule Municipal Retailers' Occupation Tax Act in the Illinois Municipal Code. Makes a technical change in a Section authorizing the imposition of the tax.

LRB094 07372 AJO 37531 b

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 8-11-1.3 as follows:

6 (65 ILCS 5/8-11-1.3) (from Ch. 24, par. 8-11-1.3)

7 Sec. 8-11-1.3. Non-Home Rule Municipal Retailers'
8 Occupation Tax Act. The ~~The~~ corporate authorities of a non-home
9 rule municipality may impose a tax upon all persons engaged in
10 the business of selling tangible personal property, other than
11 on an item of tangible personal property which is titled and
12 registered by an agency of this State's Government, at retail
13 in the municipality for expenditure on public infrastructure or
14 for property tax relief or both as defined in Section 8-11-1.2
15 if approved by referendum as provided in Section 8-11-1.1, of
16 the gross receipts from such sales made in the course of such
17 business. The tax imposed may not be more than 1/2 of 1% and
18 may be imposed only in 1/4% increments. The tax may not be
19 imposed on the sale of food for human consumption that is to be
20 consumed off the premises where it is sold (other than
21 alcoholic beverages, soft drinks, and food that has been
22 prepared for immediate consumption) and prescription and
23 nonprescription medicines, drugs, medical appliances, and
24 insulin, urine testing materials, syringes, and needles used by
25 diabetics. The tax imposed by a municipality pursuant to this
26 Section and all civil penalties that may be assessed as an
27 incident thereof shall be collected and enforced by the State
28 Department of Revenue. The certificate of registration which is
29 issued by the Department to a retailer under the Retailers'
30 Occupation Tax Act shall permit such retailer to engage in a
31 business which is taxable under any ordinance or resolution
32 enacted pursuant to this Section without registering

1 separately with the Department under such ordinance or
2 resolution or under this Section. The Department shall have
3 full power to administer and enforce this Section; to collect
4 all taxes and penalties due hereunder; to dispose of taxes and
5 penalties so collected in the manner hereinafter provided, and
6 to determine all rights to credit memoranda, arising on account
7 of the erroneous payment of tax or penalty hereunder. In the
8 administration of, and compliance with, this Section, the
9 Department and persons who are subject to this Section shall
10 have the same rights, remedies, privileges, immunities, powers
11 and duties, and be subject to the same conditions,
12 restrictions, limitations, penalties and definitions of terms,
13 and employ the same modes of procedure, as are prescribed in
14 Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 2 through 2-65 (in
15 respect to all provisions therein other than the State rate of
16 tax), 2c, 3 (except as to the disposition of taxes and
17 penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,
18 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the
19 Retailers' Occupation Tax Act and Section 3-7 of the Uniform
20 Penalty and Interest Act as fully as if those provisions were
21 set forth herein.

22 No municipality may impose a tax under this Section unless
23 the municipality also imposes a tax at the same rate under
24 Section 8-11-1.4 of this Code.

25 Persons subject to any tax imposed pursuant to the
26 authority granted in this Section may reimburse themselves for
27 their seller's tax liability hereunder by separately stating
28 such tax as an additional charge, which charge may be stated in
29 combination, in a single amount, with State tax which sellers
30 are required to collect under the Use Tax Act, pursuant to such
31 bracket schedules as the Department may prescribe.

32 Whenever the Department determines that a refund should be
33 made under this Section to a claimant instead of issuing a
34 credit memorandum, the Department shall notify the State
35 Comptroller, who shall cause the order to be drawn for the
36 amount specified, and to the person named, in such notification

1 from the Department. Such refund shall be paid by the State
2 Treasurer out of the non-home rule municipal retailers'
3 occupation tax fund.

4 The Department shall forthwith pay over to the State
5 Treasurer, ex officio, as trustee, all taxes and penalties
6 collected hereunder. On or before the 25th day of each calendar
7 month, the Department shall prepare and certify to the
8 Comptroller the disbursement of stated sums of money to named
9 municipalities, the municipalities to be those from which
10 retailers have paid taxes or penalties hereunder to the
11 Department during the second preceding calendar month. The
12 amount to be paid to each municipality shall be the amount (not
13 including credit memoranda) collected hereunder during the
14 second preceding calendar month by the Department plus an
15 amount the Department determines is necessary to offset any
16 amounts which were erroneously paid to a different taxing body,
17 and not including an amount equal to the amount of refunds made
18 during the second preceding calendar month by the Department on
19 behalf of such municipality, and not including any amount which
20 the Department determines is necessary to offset any amounts
21 which were payable to a different taxing body but were
22 erroneously paid to the municipality. Within 10 days after
23 receipt, by the Comptroller, of the disbursement certification
24 to the municipalities, provided for in this Section to be given
25 to the Comptroller by the Department, the Comptroller shall
26 cause the orders to be drawn for the respective amounts in
27 accordance with the directions contained in such
28 certification.

29 For the purpose of determining the local governmental unit
30 whose tax is applicable, a retail sale, by a producer of coal
31 or other mineral mined in Illinois, is a sale at retail at the
32 place where the coal or other mineral mined in Illinois is
33 extracted from the earth. This paragraph does not apply to coal
34 or other mineral when it is delivered or shipped by the seller
35 to the purchaser at a point outside Illinois so that the sale
36 is exempt under the Federal Constitution as a sale in

1 interstate or foreign commerce.

2 Nothing in this Section shall be construed to authorize a
3 municipality to impose a tax upon the privilege of engaging in
4 any business which under the constitution of the United States
5 may not be made the subject of taxation by this State.

6 When certifying the amount of a monthly disbursement to a
7 municipality under this Section, the Department shall increase
8 or decrease such amount by an amount necessary to offset any
9 misallocation of previous disbursements. The offset amount
10 shall be the amount erroneously disbursed within the previous 6
11 months from the time a misallocation is discovered.

12 The Department of Revenue shall implement this amendatory
13 Act of the 91st General Assembly so as to collect the tax on
14 and after January 1, 2002.

15 As used in this Section, "municipal" and "municipality"
16 means a city, village or incorporated town, including an
17 incorporated town which has superseded a civil township.

18 This Section shall be known and may be cited as the
19 "Non-Home Rule Municipal Retailers' Occupation Tax Act".

20 (Source: P.A. 91-51, eff. 6-30-99; 91-649, eff. 1-1-00; 92-739,
21 eff. 1-1-03.)