



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1921

Introduced 2/23/2007, by Rep. Donald L. Moffitt

SYNOPSIS AS INTRODUCED:

New Act
20 ILCS 2905/2.7 new
30 ILCS 105/5.675 new

Creates the Disposable Lighter Surcharge Act. Requires each wholesaler of disposable cigarette lighters to be sold and delivered in Illinois to collect a surcharge of \$0.25 per lighter and pay the collected surcharge to the Department of Revenue. Requires each wholesaler of disposable cigarette lighters to make a monthly return to the Department. Requires the Department to deposit the surcharge proceeds into the Fire Truck Revolving Loan Fund, the Ambulance Revolving Loan Fund, and the Fire Service and Small Equipment Fund. Sets forth procedures for the administration of the surcharge. Provides that any wholesaler that violates the Act is guilty of a Class 4 felony. Provides that the Act is repealed on June 30, 2013. Amends the State Fire Marshal Act and the State Finance Act. Requires the Office of the State Fire Marshal to establish and administer a program to award grants to fire departments and fire protection districts for the purchase of small fire-fighting equipment. Creates the Fire Service and Small Equipment Fund. Effective July 1, 2007.

LRB095 09522 CMK 29721 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning State government.

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

4 Section 1. Short title. This Act may be cited as the
5 Disposable Lighter Surcharge Act.

6 Section 5. Definitions. As used in this Section:

7 (a) "Department" means the Department of Revenue.

8 (b) "Disposable cigarette lighter" means a device,
9 containing a fixed amount of lighter fluid, that is
10 manufactured for the purpose of lighting any roll for smoking
11 made wholly or in part of tobacco and that is purchased at
12 retail by the consumer.

13 (c) "Retailer" means any person who engages in the making
14 of transfers of the ownership of, or title to, disposable
15 cigarette lighters to a purchaser in this State for use and not
16 for resale in any form for a valuable consideration.

17 (d) "Wholesaler" means any person who engages in the making
18 of transfers of ownership of, or title to, disposable cigarette
19 lighters to a retailer for valuable consideration when the
20 lighters are to be sold and delivered to purchasers in this
21 State.

22 Section 10. Collection of surcharge.

1 (a) Beginning January 1, 2008 and continuing through
2 December 31, 2012, each wholesaler in this State must collect
3 from each retailer, as a separately stated amount, a surcharge
4 of \$0.25 for each disposable cigarette lighter to be sold and
5 delivered by the retailer in this State. The wholesaler must
6 pay the surcharge to the Department. The surcharge owing from a
7 wholesaler, constitutes a debt owed by the wholesaler to the
8 State.

9 (b) The retailer shall collect from the purchaser the
10 amount of the surcharge paid by the retailer. The retailer must
11 state the surcharge as a distinct item separate and apart from
12 the selling price of the disposable cigarette lighter. The
13 surcharge is not includable in the gross receipts of the
14 retailer subject to the Retailers' Occupation Tax Act, the Use
15 Tax Act, or any locally imposed retailers' occupation tax.

16 Section 15. Returns by wholesaler.

17 (a) Each wholesaler of disposable cigarette lighters must
18 make a return to the Department on a monthly basis. Each return
19 made to the Department must state:

20 (1) the name of the wholesaler and each retailer to
21 whom transfers of disposable cigarette lighters were made;

22 (2) the address of the wholesaler's and each retailer's
23 principal place of business and the address of the
24 principal place of business (if that is a different
25 address) from which each retailer engages in the business

1 of making retail sales of disposable cigarette lighters;

2 (3) the total number of disposable cigarette lighters
3 transferred by the wholesaler to each retailer for the
4 preceding calendar quarter;

5 (4) the amount of surcharge due; and

6 (5) any other reasonable information that the
7 Department requires.

8 (b) Notwithstanding any other provision of this Act
9 concerning the time within which a wholesaler may file his or
10 her return, in the case of any wholesaler who ceases to engage
11 in the wholesale transfer of disposable cigarette lighters, the
12 wholesaler must file a final return under this Act with the
13 Department not more than one month after discontinuing that
14 business.

15 Section 20. Deposit of proceeds. The Department must
16 deposit the net revenue realized for the preceding month from
17 the surcharge collected under Section 10 as follows:

18 (1) 10% into the Fire Truck Revolving Loan Fund;

19 (2) 10% into the Ambulance Revolving Loan Fund; and

20 (3) 80% into the Fire Service and Small Equipment Fund.

21 Section 25. Application of Retailers' Occupation Tax
22 provisions. All the provisions of the Retailers' Occupation Tax
23 Act that are not inconsistent with this Act apply, as far as
24 practical, to the surcharge imposed by subsection (a) of

1 Section 10 of this Act to the same extent as if those
2 provisions were included in this Act.

3 Section 30. Hearing; notice. The Department may adopt and
4 enforce any reasonable rules and regulations relating to the
5 administration and enforcement of the surcharge imposed by
6 subsection (a) of Section 10 of this Act that are expedient.

7 Whenever the Department is required to provide notice to a
8 wholesaler under this Act, the notice may be personally served
9 or given by United States certified or registered mail,
10 addressed to the wholesaler concerned at his or her last known
11 address, and proof of this mailing is sufficient for the
12 purposes of this Act. In the case of a notice of hearing, the
13 notice must be mailed not less than 7 days prior to the date
14 fixed for the hearing.

15 All hearings provided by the Department under this Act with
16 respect to or concerning a wholesaler having his or her
17 principal place of business in this State other than in Cook
18 County shall be held at the Department's office nearest to the
19 location of the wholesaler's principal place of business. If
20 the wholesaler has his or her principal place of business in
21 Cook County, the hearing shall be held in Cook County. If the
22 wholesaler does not have his or her principal place of business
23 in this State, the hearing shall be held in Sangamon County.

24 Whenever any proceeding provided by this Act has been begun
25 by the Department or by a person subject thereto and that

1 person subsequently dies or becomes a person under legal
2 disability before the proceeding has been concluded, the legal
3 representative of the deceased person or person under legal
4 disability shall notify the Department of the death or legal
5 disability. The legal representative, as such, shall then be
6 substituted by the Department in place of and for the person.
7 Within 20 days after notice to the legal representative of the
8 time fixed for that purpose, the proceeding may continue in all
9 respects and with like effect as though the person had not died
10 or become a person under legal disability.

11 Section 35. Administrative procedures. The Illinois
12 Administrative Procedure Act is hereby expressly adopted and
13 applies to all administrative rules and procedures of the
14 Department under this Act, except that: (1) paragraph (b) of
15 Section 4 of the Illinois Administrative Procedure Act does not
16 apply to final orders, decisions, and opinions of the
17 Department; (2) subparagraph (a)(2) of Section 4 of the
18 Illinois Administrative Procedure Act does not apply to forms
19 established by the Department for use under this Act; and (3)
20 the provisions of Section 13 of the Illinois Administrative
21 Procedure Act regarding proposals for decision are excluded and
22 not applicable to the Department under this Act.

23 Section 40. Review under Administrative Review Law.

24 (a) The circuit court of any county in which a hearing is

1 held has the power to review all final administrative decisions
2 of the Department in administering the surcharge imposed under
3 subsection (a) of Section 10 of this Act. If, however, the
4 administrative proceeding that is to be reviewed judicially is
5 a claim for refund proceeding commenced under this Act and
6 Section 2a of the State Officers and Employees Money
7 Disposition Act, the circuit court having jurisdiction over the
8 action for judicial review under this Section and under the
9 Administrative Review Law shall be the same court that entered
10 the temporary restraining order or preliminary injunction that
11 is provided for in that Section 2a, and that enables the claim
12 proceeding to be processed and disposed of as a claim for
13 refund proceeding other than as a claim for credit proceeding.

14 (b) The provisions of the Administrative Review Law, and
15 the rules adopted pursuant thereto, apply to and govern all
16 proceedings for the judicial review of final administrative
17 decisions of the Department under this Act. The term
18 "administrative decision" is defined as in Section 3-101 of the
19 Code of Civil Procedure.

20 (c) Service of summons issued in any action to review a
21 final administrative decision upon the Director or Assistant
22 Director of Revenue shall be service upon the Department. The
23 Department shall certify the record of its proceedings if the
24 taxpayer pays to it the sum of \$0.75 per page of testimony
25 taken before the Department and \$0.25 per page of all other
26 matters contained in the record, except that these charges may

1 be waived if the Department is satisfied that the aggrieved
2 party cannot afford to pay these charges.

3 Section 45. Penalty. Any wholesaler who fails to make a
4 return, who makes a fraudulent return, or who willfully
5 violates any rule or regulation of the Department for the
6 administration and enforcement of the surcharge imposed by this
7 Act, is guilty of a Class 4 felony.

8 Section 50. Repeal. This Act is repealed on June 30, 2013.

9 Section 900. The State Fire Marshal Act is amended by
10 adding Section 2.7 as follows:

11 (20 ILCS 2905/2.7 new)

12 Sec. 2.7. Small Fire-fighting Equipment Grant Program.

13 (a) The Office shall establish and administer a Small
14 Fire-fighting Equipment Grant Program to award grants to fire
15 departments and fire protection districts for the purchase of
16 small fire-fighting equipment.

17 (b) The Fire Service and Small Equipment Fund is created as
18 a special fund in the State Treasury. From appropriations, the
19 Office may expend moneys from the Fund for the grant program
20 under subsection (a). Moneys received for the purposes of this
21 Section, including, without limitation, proceeds received
22 under the Disposable Lighter Surcharge Act and gifts, grants,

1 and awards from any public or private entity must be deposited
2 into the Fund. Any interest earned on moneys in the Fund must
3 be deposited into the Fund.

4 (c) As used in this Section, "small fire-fighting
5 equipment" includes, without limitation, turnout gear, air
6 packs, thermal imaging cameras, jaws of life, and other
7 fire-fighting equipment, as determined by the State Fire
8 Marshal.

9 (d) The Office shall adopt any rules necessary for the
10 implementation and administration of this Section.

11 Section 905. The State Finance Act is amended by adding
12 Section 5.675 as follows:

13 (30 ILCS 105/5.675 new)

14 Sec. 5.675. The Fire Service and Small Equipment Fund.

15 Section 999. Effective date. This Act takes effect July 1,
16 2007.