



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4995

by Rep. Paul D. Froehlich

SYNOPSIS AS INTRODUCED:

30 ILCS 105/5.708 new
415 ILCS 5/60 heading new
415 ILCS 5/60.5 new
415 ILCS 5/60.10 new
415 ILCS 5/60.15 new
415 ILCS 5/60.20 new
415 ILCS 5/60.25 new
415 ILCS 5/60.30 new
415 ILCS 5/60.35 new
415 ILCS 5/60.40 new
415 ILCS 5/60.45 new
415 ILCS 5/60.50 new

Amends the Environmental Protection Act and the State Finance Act. Requires the Environmental Protection Agency to establish and maintain a program to collect fees from and award rebates to purchasers of new motor vehicles based upon the fuel-economy ratings of those motor vehicles. Requires the Agency to set forth a list of (i) each motor vehicle upon which the Agency will impose a fee for the purchase of that vehicle, (ii) each motor vehicle upon which the Agency will award a rebate for the purchase of that vehicle, and (iii) the amount of each fee and rebate. Sets forth provisions for the fee collections and rebate awards. Provides for fee refunds for vehicles used primarily for agricultural or construction purposes. Effective immediately.

LRB095 15050 BDD 41008 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning motor vehicles.

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

4 Section 5. The State Finance Act is amended by adding
5 Section 5.708 as follows:

6 (30 ILCS 105/5.708 new)

7 Sec. 5.708. The Fuel Economy Fee and Rebate Fund.

8 Section 10. The Environmental Protection Act is amended by
9 adding Title XVIII as follows:

10 (415 ILCS 5/60 heading new)

11 Title XVIII: FUEL ECONOMY FEE AND REBATE PROGRAM

12 (415 ILCS 5/60.5 new)

13 Sec. 60.5. Definitions. As used in this Title:

14 "Motor vehicle" means a motor vehicle of the First
15 Division, as defined in Section 1-217 of the Illinois Vehicle
16 Code, but does not include a motorcycle, motor-driven cycle, or
17 pedalcycle.

18 "New motor vehicle" means a motor vehicle (i) that is
19 manufactured in or after the 2008 calendar year and (ii) that
20 has not been previously sold to any person except a franchised

1 distributor or a franchised new-vehicle dealer.

2 "Retailer" has the meaning set forth in Section 2 of the
3 Use Tax Act.

4 (415 ILCS 5/60.10 new)

5 Sec. 60.10. Fuel Economy Fee and Rebate Program.

6 (a) The Agency shall create and maintain a program to
7 collect fees from and award rebates to purchasers of new motor
8 vehicles based upon the fuel-economy ratings of those motor
9 vehicles.

10 (b) Under the program, the Agency must set forth a list of
11 (i) each motor vehicle upon which the Agency will impose a fee
12 for the purchase of that vehicle, (ii) each motor vehicle upon
13 which the Agency will award a rebate for the purchase of that
14 vehicle, and (iii) the amount of each fee and rebate. The
15 Agency must base the classifications under this subsection upon
16 the fuel-economy ratings for the vehicles, as determined by the
17 Department of Energy and the U.S. Environmental Protection
18 Agency. The Agency must publish each list under this subsection
19 on its Internet web site and make copies available to the
20 public upon request.

21 (c) Beginning July 1, 2008, each person who sells a new
22 motor vehicle at retail in this State for which a fee is
23 imposed by the Agency under subsection (b) shall collect that
24 fee from the retail customer. The seller must pay the fee to
25 the Department of Revenue for deposit into the Fuel Economy Fee

1 and Rebate Fund.

2 (d) Beginning July 1, 2008, each person who purchases a new
3 motor vehicle at retail in this State for which a rebate is
4 awarded by the Agency under subsection (b) may apply to the
5 Agency for the rebate. The rebate application must be in the
6 form and manner required by the Agency.

7 (415 ILCS 5/60.15 new)

8 Sec. 60.15. Fuel Economy Fee and Rebate Fund.

9 (a) The Fuel Economy Fee and Rebate Fund is created as a
10 special fund in the State treasury. From appropriations to the
11 Agency from the Fund, the Agency shall award rebates under
12 subsection (d) of Section 60.10 for the purchase of new motor
13 vehicles with high fuel-economy ratings and shall make refunds
14 under Section 60.20.

15 (b) All fees collected under this Title and all penalties
16 or punitive damages for violations of this Title must be
17 deposited into the Fund. Additionally, any other moneys
18 received for the purposes of this Title, including, without
19 limitation, appropriations, gifts, grants, and awards from any
20 public or private entity, must be deposited into the Fund.

21 (c) The Agency may retain an amount of up to 2% of the
22 moneys in the Fund in each State fiscal year for the costs of
23 the Agency and of the Department of Revenue in administering
24 the program under this Title.

25 (d) Any interest earnings that are attributable to moneys

1 in the Fund must be deposited into the Fund.

2 (415 ILCS 5/60.20 new)

3 Sec. 60.20. Fee refunds. If any person purchases a new
4 motor vehicle to be used primarily for agricultural or
5 construction purposes, then that purchaser may apply to the
6 Agency for a refund of the fee paid under subsection (c) of
7 Section 60.10. The refund application must be in the form and
8 manner required by the Agency. The Agency shall, by rule, set
9 forth the standards for determining whether a vehicle is used
10 primarily for agricultural or construction purposes. Refunds
11 under this Section must be paid from the Fuel Economy Fee and
12 Rebate Fund.

13 (415 ILCS 5/60.25 new)

14 Sec. 60.25. Returns by retailers.

15 (a) Each retailer of new motor vehicles who maintains a
16 place of business in this State must make a return to the
17 Department of Revenue on a quarter-annual basis, with the
18 return for January, February, and March of a given year being
19 due by April 30 of that year; with the return for April, May,
20 and June of a given year being due by July 31 of that year; with
21 the return for July, August, and September of a given year
22 being due by October 31 of that year; and with the return for
23 October, November, and December of a given year being due by
24 January 31 of the following year. Each return made to the

1 Department of Revenue must state the following:

2 (1) the name of the retailer;

3 (2) the address of the retailer's principal place of
4 business and the address of the principal place of business
5 (if that is a different address) from which the retailer
6 engages in the business of making retail sales of motor
7 vehicles;

8 (3) the total number of new motor vehicles sold at
9 retail in the preceding calendar quarter for which a fee is
10 imposed under subsection (c) of Section 60.10;

11 (4) the total amount of fees collected in the preceding
12 calendar quarter; and

13 (5) any other information that the Department of
14 Revenue reasonably requires.

15 (b) Notwithstanding any other provision of law concerning
16 the time within which a retailer may file his or her return, in
17 the case of any retailer who ceases to engage in the retail
18 sale of new motor vehicles, the retailer must file a final
19 return under this Title with the Department of Revenue not more
20 than one calendar month after discontinuing that business.

21 (415 ILCS 5/60.30 new)

22 Sec. 60.30. Application of Retailers' Occupation Tax
23 provisions. All the provisions of Sections 4, 5, 5a, 5b, 5c,
24 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, and 13
25 of the Retailers' Occupation Tax Act that are not inconsistent

1 with this Title apply, as far as practicable, to the fee
2 imposed by subsection (c) of Section 60.10 of this Act to the
3 same extent as if those provisions were included in this Title.
4 References in the incorporated Sections of the Retailers'
5 Occupation Tax Act to retailers, to sellers, or to persons
6 engaged in the business of selling tangible personal property
7 mean retailers of new motor vehicles.

8 (415 ILCS 5/60.35 new)

9 Sec. 60.35. Hearing; notice. The Department of Revenue may
10 adopt and enforce any reasonable rule to administer and enforce
11 the fee imposed by subsection (c) of Section 60.10 of this Act.

12 Whenever the Department of Revenue is required to provide
13 notice to a retailer under this Title, the notice may be
14 personally served or given by United States certified or
15 registered mail, addressed to the retailer or taxpayer
16 concerned at his or her last known address, and proof of this
17 mailing is sufficient for the purposes of this Title. In the
18 case of a notice of hearing, the Department must mail the
19 notice at least 7 days prior to the date fixed for the hearing.

20 All hearings provided by the Department of Revenue under
21 this Title with respect to or concerning a taxpayer having his
22 or her principal place of business in this State other than in
23 Cook County shall be held at the Department's office nearest to
24 the location of the taxpayer's principal place of business. If
25 the taxpayer has his or her principal place of business in Cook

1 County, then the hearing must be held in Cook County. If the
2 taxpayer does not have his or her principal place of business
3 in this State, then the hearing must be held in Sangamon
4 County.

5 If any proceeding under this Title has been begun by the
6 Department of Revenue or by a person subject thereto and that
7 person subsequently dies or becomes a person under legal
8 disability before the proceeding has been concluded, then the
9 legal representative of the deceased person or person under
10 legal disability shall notify the Department of Revenue of the
11 death or legal disability. The Department must substitute the
12 legal representative, as such, in place of and for the person.
13 Within 20 days after notice to the legal representative of the
14 time fixed for that purpose, the proceeding may proceed in all
15 respects and with like effect as though the person had not died
16 or become a person under legal disability.

17 (415 ILCS 5/60.40 new)

18 Sec. 60.40. Administrative procedures. The Illinois
19 Administrative Procedure Act is expressly adopted and applies
20 to all administrative rules and procedures of the Department of
21 Revenue under this Title, except that: (1) paragraph (b) of
22 Section 4 of the Illinois Administrative Procedure Act does not
23 apply to final orders, decisions, and opinions of the
24 Department of Revenue; (2) subparagraph (a)(2) of Section 4 of
25 the Illinois Administrative Procedure Act does not apply to

1 forms established by the Department of Revenue for use under
2 this Title; and (3) the provisions of Section 13 of the
3 Illinois Administrative Procedure Act regarding proposals for
4 decision are excluded and not applicable to the Department of
5 Revenue under this Title.

6 (415 ILCS 5/60.45 new)

7 Sec. 60.45. Review under Administrative Review Law.

8 (a) The circuit court of any county in which a hearing is
9 held has the power to review all final administrative decisions
10 of the Department of Revenue in administering the fee imposed
11 under subsection (c) of Section 60.10 of this Act. If, however,
12 the administrative proceeding that is to be reviewed judicially
13 is a claim for refund proceeding commenced under this Act and
14 Section 2a of the State Officers and Employees Money
15 Disposition Act, the circuit court having jurisdiction over the
16 action for judicial review under this Section and under the
17 Administrative Review Law is the same court that entered the
18 temporary restraining order or preliminary injunction that is
19 provided for in that Section 2a, and that enables the claim
20 proceeding to be processed and disposed of as a claim for
21 refund proceeding other than as a claim for credit proceeding.

22 (b) The provisions of the Administrative Review Law apply
23 to and govern all proceedings for the judicial review of final
24 administrative decisions of the Department of Revenue under
25 this Title. The term "administrative decision" is defined as in

1 Section 3-101 of the Code of Civil Procedure.

2 (c) Service of summons issued in any action to review a
3 final administrative decision upon the Director or Assistant
4 Director of Revenue shall be service upon the Department of
5 Revenue. The Department of Revenue shall certify the record of
6 its proceedings if the taxpayer pays to it the sum of \$0.75 per
7 page of testimony taken before the Department of Revenue and
8 \$0.25 per page of all other matters contained in the record,
9 except that these charges may be waived if the Department of
10 Revenue is satisfied that the aggrieved party cannot afford to
11 pay these charges.

12 (415 ILCS 5/60.50 new)

13 Sec. 60.50. Penalty. Any retailer who fails to make a
14 return or who makes a fraudulent return, or who willfully
15 violates any rule or regulation of the Department of Revenue
16 for the administration and enforcement of the fee imposed by
17 subsection (c) of Section 60.10 of this Act, is guilty of a
18 Class 4 felony.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.