



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB1641

Introduced 2/18/2009, by Rep. Michael J. Madigan - Barbara Flynn Currie - Paul D. Froehlich

SYNOPSIS AS INTRODUCED:

65 ILCS 5/8-11-1.6

Amends the Illinois Municipal Code. Makes a technical change in a Section concerning a non-home rule municipal retailers' occupation tax imposed in certain municipalities with a population of more than 20,000 but less than 25,000.

LRB096 05212 RLJ 15278 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 8-11-1.6 as follows:

6 (65 ILCS 5/8-11-1.6)

7 Sec. 8-11-1.6. Non-home rule municipal retailers
8 occupation tax; municipalities between 20,000 and ~~and~~ 25,000.
9 The corporate authorities of a non-home rule municipality with
10 a population of more than 20,000 but less than 25,000 that has,
11 prior to January 1, 1987, established a Redevelopment Project
12 Area that has been certified as a State Sales Tax Boundary and
13 has issued bonds or otherwise incurred indebtedness to pay for
14 costs in excess of \$5,000,000, which is secured in part by a
15 tax increment allocation fund, in accordance with the
16 provisions of Division 11-74.4 of this Code may, by passage of
17 an ordinance, impose a tax upon all persons engaged in the
18 business of selling tangible personal property, other than on
19 an item of tangible personal property that is titled and
20 registered by an agency of this State's Government, at retail
21 in the municipality. This tax may not be imposed on the sales
22 of food for human consumption that is to be consumed off the
23 premises where it is sold (other than alcoholic beverages, soft

1 drinks, and food that has been prepared for immediate
2 consumption) and prescription and nonprescription medicines,
3 drugs, medical appliances and insulin, urine testing
4 materials, syringes, and needles used by diabetics. If imposed,
5 the tax shall only be imposed in .25% increments of the gross
6 receipts from such sales made in the course of business. Any
7 tax imposed by a municipality under this Sec. and all civil
8 penalties that may be assessed as an incident thereof shall be
9 collected and enforced by the State Department of Revenue. An
10 ordinance imposing a tax hereunder or effecting a change in the
11 rate thereof shall be adopted and a certified copy thereof
12 filed with the Department on or before the first day of
13 October, whereupon the Department shall proceed to administer
14 and enforce this Section as of the first day of January next
15 following such adoption and filing. The certificate of
16 registration that is issued by the Department to a retailer
17 under the Retailers' Occupation Tax Act shall permit the
18 retailer to engage in a business that is taxable under any
19 ordinance or resolution enacted under this Section without
20 registering separately with the Department under the ordinance
21 or resolution or under this Section. The Department shall have
22 full power to administer and enforce this Section, to collect
23 all taxes and penalties due hereunder, to dispose of taxes and
24 penalties so collected in the manner hereinafter provided, and
25 to determine all rights to credit memoranda, arising on account
26 of the erroneous payment of tax or penalty hereunder. In the

1 administration of, and compliance with this Section, the
2 Department and persons who are subject to this Section shall
3 have the same rights, remedies, privileges, immunities,
4 powers, and duties, and be subject to the same conditions,
5 restrictions, limitations, penalties, and definitions of
6 terms, and employ the same modes of procedure, as are
7 prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 2
8 through 2-65 (in respect to all provisions therein other than
9 the State rate of tax), 2c, 3 (except as to the disposition of
10 taxes and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f,
11 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and
12 13 of the Retailers' Occupation Tax Act and Section 3-7 of the
13 Uniform Penalty and Interest Act as fully as if those
14 provisions were set forth herein.

15 A tax may not be imposed by a municipality under this
16 Section unless the municipality also imposes a tax at the same
17 rate under Section 8-11-1.7 of this Act.

18 Persons subject to any tax imposed under the authority
19 granted in this Section, may reimburse themselves for their
20 seller's tax liability hereunder by separately stating the tax
21 as an additional charge, which charge may be stated in
22 combination, in a single amount, with State tax which sellers
23 are required to collect under the Use Tax Act, pursuant to such
24 bracket schedules as the Department may prescribe.

25 Whenever the Department determines that a refund should be
26 made under this Section to a claimant, instead of issuing a

1 credit memorandum, the Department shall notify the State
2 Comptroller, who shall cause the order to be drawn for the
3 amount specified, and to the person named in the notification
4 from the Department. The refund shall be paid by the State
5 Treasurer out of the Non-Home Rule Municipal Retailers'
6 Occupation Tax Fund, which is hereby created.

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

1 the municipalities provided for in this Section to be given to
2 the Comptroller by the Department, the Comptroller shall cause
3 the orders to be drawn for the respective amounts in accordance
4 with the directions contained in the certification.

5 For the purpose of determining the local governmental unit
6 whose tax is applicable, a retail sale by a producer of coal or
7 other mineral mined in Illinois is a sale at retail at the
8 place where the coal or other mineral mined in Illinois is
9 extracted from the earth. This paragraph does not apply to coal
10 or other mineral when it is delivered or shipped by the seller
11 to the purchaser at a point outside Illinois so that the sale
12 is exempt under the federal Constitution as a sale in
13 interstate or foreign commerce.

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

18 When certifying the amount of a monthly disbursement to a
19 municipality under this Section, the Department shall increase
20 or decrease the amount by an amount necessary to offset any
21 misallocation of previous disbursements. The offset amount
22 shall be the amount erroneously disbursed within the previous 6
23 months from the time a misallocation is discovered.

24 As used in this Section, "municipal" and "municipality"
25 means a city, village, or incorporated town, including an
26 incorporated town that has superseded a civil township.

1 (Source: P.A. 88-334; 89-399, eff. 8-20-95.)