

1 AN ACT concerning revenue.

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

4 Section 5. The Retailers' Occupation Tax Act is amended by
5 changing Section 2a as follows:

6 (35 ILCS 120/2a) (from Ch. 120, par. 441a)

7 Sec. 2a. It is unlawful for any person to engage in the
8 business of selling tangible personal property at retail in
9 this State without a certificate of registration from the
10 Department. Application for a certificate of registration
11 shall be made to the Department upon forms furnished by it.
12 Each such application shall be signed and verified and shall
13 state: (1) the name and social security number of the
14 applicant; (2) the address of his principal place of business;
15 (3) the address of the principal place of business from which
16 he engages in the business of selling tangible personal
17 property at retail in this State and the addresses of all other
18 places of business, if any (enumerating such addresses, if any,
19 in a separate list attached to and made a part of the
20 application), from which he engages in the business of selling
21 tangible personal property at retail in this State; (4) the
22 name and address of the person or persons who will be
23 responsible for filing returns and payment of taxes due under

1 this Act; (5) in the case of a corporation, the name, title,
2 and social security number of each corporate officer; (6) in
3 the case of a limited liability company, the name, social
4 security number, and FEIN number of each manager and member;
5 and (7) such other information as the Department may reasonably
6 require. The application shall contain an acceptance of
7 responsibility signed by the person or persons who will be
8 responsible for filing returns and payment of the taxes due
9 under this Act. If the applicant will sell tangible personal
10 property at retail through vending machines, his application to
11 register shall indicate the number of vending machines to be so
12 operated; and thereafter, he shall notify the Department by
13 January 31 of the number of vending machines which such person
14 was using in his business of selling tangible personal property
15 at retail on the preceding December 31.

16 The Department may deny a certificate of registration to
17 any applicant if the owner, any partner, any manager or member
18 of a limited liability company, or a corporate officer of the
19 applicant, is or has been the owner, a partner, a manager or
20 member of a limited liability company, or a corporate officer,
21 of another retailer that is in default for moneys due under
22 this Act.

23 The Department may require an ~~Every~~ applicant for a
24 certificate of registration hereunder to ~~shall~~, at the time of
25 filing such application, furnish a bond from a surety company
26 authorized to do business in the State of Illinois, or an

1 irrevocable bank letter of credit or a bond signed by 2
2 personal sureties who have filed, with the Department, sworn
3 statements disclosing net assets equal to at least 3 times the
4 amount of the bond to be required of such applicant, or a bond
5 secured by an assignment of a bank account or certificate of
6 deposit, stocks or bonds, conditioned upon the applicant paying
7 to the State of Illinois all moneys becoming due under this Act
8 and under any other State tax law or municipal or county tax
9 ordinance or resolution under which the certificate of
10 registration that is issued to the applicant under this Act
11 will permit the applicant to engage in business without
12 registering separately under such other law, ordinance or
13 resolution. In making a determination as to whether to require
14 a bond or other security, the Department shall take into
15 consideration whether the owner, any partner, any manager or
16 member of a limited liability company, or a corporate officer
17 of the applicant is or has been the owner, a partner, a manager
18 or member of a limited liability company, or a corporate
19 officer of another retailer that is in default for moneys due
20 under this Act or any other tax or fee Act administered by the
21 Department; and whether the owner, any partner, any manager or
22 member of a limited liability company, or a corporate officer
23 of the applicant is or has been the owner, a partner, a manager
24 or member of a limited liability company, or a corporate
25 officer of another retailer whose certificate of registration
26 has been revoked within the previous 5 years under this Act or

1 any other tax or fee Act administered by the Department. If a
2 bond or other security is required, the Department shall fix
3 the amount of the bond or other security, taking into
4 consideration the amount of money expected to become due from
5 the applicant under this Act and under any other State tax law
6 or municipal or county tax ordinance or resolution under which
7 the certificate of registration that is issued to the applicant
8 under this Act will permit the applicant to engage in business
9 without registering separately under such other law,
10 ordinance, or resolution. ~~The Department shall fix the amount~~
11 ~~of such security in each case, taking into consideration the~~
12 ~~amount of money expected to become due from the applicant under~~
13 ~~this Act and under any other State tax law or municipal or~~
14 ~~county tax ordinance or resolution under which the certificate~~
15 ~~of registration that is issued to the applicant under this Act~~
16 ~~will permit the applicant to engage in business without~~
17 ~~registering separately under such other law, ordinance or~~
18 ~~resolution.~~ The amount of security required by the Department
19 shall be such as, in its opinion, will protect the State of
20 Illinois against failure to pay the amount which may become due
21 from the applicant under this Act and under any other State tax
22 law or municipal or county tax ordinance or resolution under
23 which the certificate of registration that is issued to the
24 applicant under this Act will permit the applicant to engage in
25 business without registering separately under such other law,
26 ordinance or resolution, but the amount of the security

1 required by the Department shall not exceed three times the
2 amount of the applicant's average monthly tax liability, or
3 \$50,000.00, whichever amount is lower.

4 No certificate of registration under this Act shall be
5 issued by the Department until the applicant provides the
6 Department with satisfactory security, if required, as herein
7 provided for.

8 Upon receipt of the application for certificate of
9 registration in proper form, and upon approval by the
10 Department of the security furnished by the applicant, if
11 required, the Department shall issue to such applicant a
12 certificate of registration which shall permit the person to
13 whom it is issued to engage in the business of selling tangible
14 personal property at retail in this State. The certificate of
15 registration shall be conspicuously displayed at the place of
16 business which the person so registered states in his
17 application to be the principal place of business from which he
18 engages in the business of selling tangible personal property
19 at retail in this State.

20 No certificate of registration issued to a taxpayer who
21 files returns required by this Act on a monthly basis shall be
22 valid after the expiration of 5 years from the date of its
23 issuance or last renewal. The expiration date of a
24 sub-certificate of registration shall be that of the
25 certificate of registration to which the sub-certificate
26 relates. A certificate of registration shall automatically be

1 renewed, subject to revocation as provided by this Act, for an
2 additional 5 years from the date of its expiration unless
3 otherwise notified by the Department as provided by this
4 paragraph. Where a taxpayer to whom a certificate of
5 registration is issued under this Act is in default to the
6 State of Illinois for delinquent returns or for moneys due
7 under this Act or any other State tax law or municipal or
8 county ordinance administered or enforced by the Department,
9 the Department shall, not less than 120 days before the
10 expiration date of such certificate of registration, give
11 notice to the taxpayer to whom the certificate was issued of
12 the account period of the delinquent returns, the amount of
13 tax, penalty and interest due and owing from the taxpayer, and
14 that the certificate of registration shall not be automatically
15 renewed upon its expiration date unless the taxpayer, on or
16 before the date of expiration, has filed and paid the
17 delinquent returns or paid the defaulted amount in full. A
18 taxpayer to whom such a notice is issued shall be deemed an
19 applicant for renewal. The Department shall promulgate
20 regulations establishing procedures for taxpayers who file
21 returns on a monthly basis but desire and qualify to change to
22 a quarterly or yearly filing basis and will no longer be
23 subject to renewal under this Section, and for taxpayers who
24 file returns on a yearly or quarterly basis but who desire or
25 are required to change to a monthly filing basis and will be
26 subject to renewal under this Section.

1 The Department may in its discretion approve renewal by an
2 applicant who is in default if, at the time of application for
3 renewal, the applicant files all of the delinquent returns or
4 pays to the Department such percentage of the defaulted amount
5 as may be determined by the Department and agrees in writing to
6 waive all limitations upon the Department for collection of the
7 remaining defaulted amount to the Department over a period not
8 to exceed 5 years from the date of renewal of the certificate;
9 however, no renewal application submitted by an applicant who
10 is in default shall be approved if the immediately preceding
11 renewal by the applicant was conditioned upon the installment
12 payment agreement described in this Section. The payment
13 agreement herein provided for shall be in addition to and not
14 in lieu of the security that may be required by this Section of
15 a taxpayer who is no longer considered a prior continuous
16 compliance taxpayer. The execution of the payment agreement as
17 provided in this Act shall not toll the accrual of interest at
18 the statutory rate.

19 The Department may suspend a certificate of registration if
20 the Department finds that the person to whom the certificate of
21 registration has been issued knowingly sold contraband
22 cigarettes.

23 A certificate of registration issued under this Act more
24 than 5 years before the effective date of this amendatory Act
25 of 1989 shall expire and be subject to the renewal provisions
26 of this Section on the next anniversary of the date of issuance

1 of such certificate which occurs more than 6 months after the
2 effective date of this amendatory Act of 1989. A certificate of
3 registration issued less than 5 years before the effective date
4 of this amendatory Act of 1989 shall expire and be subject to
5 the renewal provisions of this Section on the 5th anniversary
6 of the issuance of the certificate.

7 If the person so registered states that he operates other
8 places of business from which he engages in the business of
9 selling tangible personal property at retail in this State, the
10 Department shall furnish him with a sub-certificate of
11 registration for each such place of business, and the applicant
12 shall display the appropriate sub-certificate of registration
13 at each such place of business. All sub-certificates of
14 registration shall bear the same registration number as that
15 appearing upon the certificate of registration to which such
16 sub-certificates relate.

17 If the applicant will sell tangible personal property at
18 retail through vending machines, the Department shall furnish
19 him with a sub-certificate of registration for each such
20 vending machine, and the applicant shall display the
21 appropriate sub-certificate of registration on each such
22 vending machine by attaching the sub-certificate of
23 registration to a conspicuous part of such vending machine.

24 Where the same person engages in 2 or more businesses of
25 selling tangible personal property at retail in this State,
26 which businesses are substantially different in character or

1 engaged in under different trade names or engaged in under
2 other substantially dissimilar circumstances (so that it is
3 more practicable, from an accounting, auditing or bookkeeping
4 standpoint, for such businesses to be separately registered),
5 the Department may require or permit such person (subject to
6 the same requirements concerning the furnishing of security as
7 those that are provided for hereinbefore in this Section as to
8 each application for a certificate of registration) to apply
9 for and obtain a separate certificate of registration for each
10 such business or for any of such businesses, under a single
11 certificate of registration supplemented by related
12 sub-certificates of registration.

13 Any person who is registered under the "Retailers'
14 Occupation Tax Act" as of March 8, 1963, and who, during the
15 3-year period immediately prior to March 8, 1963, or during a
16 continuous 3-year period part of which passed immediately
17 before and the remainder of which passes immediately after
18 March 8, 1963, has been so registered continuously and who is
19 determined by the Department not to have been either delinquent
20 or deficient in the payment of tax liability during that period
21 under this Act or under any other State tax law or municipal or
22 county tax ordinance or resolution under which the certificate
23 of registration that is issued to the registrant under this Act
24 will permit the registrant to engage in business without
25 registering separately under such other law, ordinance or
26 resolution, shall be considered to be a Prior Continuous

1 Compliance taxpayer. Also any taxpayer who has, as verified by
2 the Department, faithfully and continuously complied with the
3 condition of his bond or other security under the provisions of
4 this Act for a period of 3 consecutive years shall be
5 considered to be a Prior Continuous Compliance taxpayer.

6 Every Prior Continuous Compliance taxpayer shall be exempt
7 from all requirements under this Act concerning the furnishing
8 of a bond or other security as a condition precedent to his
9 being authorized to engage in the business of selling tangible
10 personal property at retail in this State. This exemption shall
11 continue for each such taxpayer until such time as he may be
12 determined by the Department to be delinquent in the filing of
13 any returns, or is determined by the Department (either through
14 the Department's issuance of a final assessment which has
15 become final under the Act, or by the taxpayer's filing of a
16 return which admits tax that is not paid to be due) to be
17 delinquent or deficient in the paying of any tax under this Act
18 or under any other State tax law or municipal or county tax
19 ordinance or resolution under which the certificate of
20 registration that is issued to the registrant under this Act
21 will permit the registrant to engage in business without
22 registering separately under such other law, ordinance or
23 resolution, at which time that taxpayer shall become subject to
24 all the financial responsibility requirements of this Act and,
25 as a condition of being allowed to continue to engage in the
26 business of selling tangible personal property at retail, may

1 ~~shall~~ be required to post bond or other acceptable security
2 with the Department covering liability which such taxpayer may
3 thereafter incur. Any taxpayer who fails to pay an admitted or
4 established liability under this Act may also be required to
5 post bond or other acceptable security with this Department
6 guaranteeing the payment of such admitted or established
7 liability.

8 No certificate of registration shall be issued to any
9 person who is in default to the State of Illinois for moneys
10 due under this Act or under any other State tax law or
11 municipal or county tax ordinance or resolution under which the
12 certificate of registration that is issued to the applicant
13 under this Act will permit the applicant to engage in business
14 without registering separately under such other law, ordinance
15 or resolution.

16 Any person aggrieved by any decision of the Department
17 under this Section may, within 20 days after notice of such
18 decision, protest and request a hearing, whereupon the
19 Department shall give notice to such person of the time and
20 place fixed for such hearing and shall hold a hearing in
21 conformity with the provisions of this Act and then issue its
22 final administrative decision in the matter to such person. In
23 the absence of such a protest within 20 days, the Department's
24 decision shall become final without any further determination
25 being made or notice given.

26 With respect to security other than bonds (upon which the

1 Department may sue in the event of a forfeiture), if the
2 taxpayer fails to pay, when due, any amount whose payment such
3 security guarantees, the Department shall, after such
4 liability is admitted by the taxpayer or established by the
5 Department through the issuance of a final assessment that has
6 become final under the law, convert the security which that
7 taxpayer has furnished into money for the State, after first
8 giving the taxpayer at least 10 days' written notice, by
9 registered or certified mail, to pay the liability or forfeit
10 such security to the Department. If the security consists of
11 stocks or bonds or other securities which are listed on a
12 public exchange, the Department shall sell such securities
13 through such public exchange. If the security consists of an
14 irrevocable bank letter of credit, the Department shall convert
15 the security in the manner provided for in the Uniform
16 Commercial Code. If the security consists of a bank certificate
17 of deposit, the Department shall convert the security into
18 money by demanding and collecting the amount of such bank
19 certificate of deposit from the bank which issued such
20 certificate. If the security consists of a type of stocks or
21 other securities which are not listed on a public exchange, the
22 Department shall sell such security to the highest and best
23 bidder after giving at least 10 days' notice of the date, time
24 and place of the intended sale by publication in the "State
25 Official Newspaper". If the Department realizes more than the
26 amount of such liability from the security, plus the expenses

1 incurred by the Department in converting the security into
2 money, the Department shall pay such excess to the taxpayer who
3 furnished such security, and the balance shall be paid into the
4 State Treasury.

5 The Department shall discharge any surety and shall release
6 and return any security deposited, assigned, pledged or
7 otherwise provided to it by a taxpayer under this Section
8 within 30 days after:

9 (1) such taxpayer becomes a Prior Continuous
10 Compliance taxpayer; or

11 (2) such taxpayer has ceased to collect receipts on
12 which he is required to remit tax to the Department, has
13 filed a final tax return, and has paid to the Department an
14 amount sufficient to discharge his remaining tax
15 liability, as determined by the Department, under this Act
16 and under every other State tax law or municipal or county
17 tax ordinance or resolution under which the certificate of
18 registration issued under this Act permits the registrant
19 to engage in business without registering separately under
20 such other law, ordinance or resolution. The Department
21 shall make a final determination of the taxpayer's
22 outstanding tax liability as expeditiously as possible
23 after his final tax return has been filed; if the
24 Department cannot make such final determination within 45
25 days after receiving the final tax return, within such
26 period it shall so notify the taxpayer, stating its reasons

1 therefor.

2 (Source: P.A. 95-1053, eff. 1-1-10.)

3 Section 10. The Transient Merchant Act of 1987 is amended
4 by changing Section 3 as follows:

5 (225 ILCS 465/3) (from Ch. 121 1/2, par. 1653)

6 Sec. 3. It is a violation of this Act for any person,
7 either as principal or agent, to conduct business as a
8 transient merchant or itinerant vendor in this State without
9 first complying with the requirements of Section 2a of the
10 Retailers' Occupation Tax Act by obtaining a certificate of
11 registration and, if a bond or other security is required, by
12 posting bond or other approved security, and without having
13 obtained a license under this Act.

14 (Source: P.A. 85-600.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.