



Sen. Terry Link

**Filed: 3/26/2012**

09700SB2900sam002

LRB097 15550 HLH 67969 a

1 AMENDMENT TO SENATE BILL 2900

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2900, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 1. Short title. This Act may be cited as the  
6 Cigarette Machine Use Tax Act.

7 Section 5. Definitions.

8 "Cigarette machine" means any machine, equipment, or  
9 device used to make, manufacture, or fabricate a product that  
10 is made or derived from tobacco and rolled into a tube.

11 "Cigarette machine operator" means any person who offers a  
12 cigarette machine for use to the general public on his or her  
13 premises in this State and is licensed by the Department as a  
14 cigarette machine operator under Section 15 of this Act.

15 "Department" means the Department of Revenue.

1 Section 10. Tax imposed.

2 (a) A tax is imposed upon all persons engaged in business  
3 as cigarette machine operators. The tax is imposed at the rate  
4 of \$7.78 for every 200 tubes used in the machine. The tax  
5 imposed under this Section shall be collected and paid to the  
6 Department by the cigarette machine operator.

7 (b) The assessment payment obligation set forth in  
8 subsection (a) may be transferred by the cigarette machine  
9 operator to the manufacturer of the machine described in  
10 subsection (a) by a written agreement signed by the cigarette  
11 machine operator and the manufacturer of the machine and  
12 approved by the Department.

13 Section 15. License required.

14 (a) No person may engage in business as a cigarette machine  
15 operator without first having obtained a license therefor from  
16 the Department. Applications for a license shall be made to the  
17 Department on a form furnished and prescribed by the  
18 Department. Each applicant for a license under this Section  
19 shall furnish to the Department on the form signed and verified  
20 by the applicant under penalty of perjury the following  
21 information:

22 (1) the name and address of the applicant;

23 (2) the address of the location at which the applicant  
24 proposes to engage in business as a cigarette machine  
25 operator in this State; and

1           (3) such other additional information as the  
2           Department may lawfully require by its rules and  
3           regulations.

4           (b) The annual license fee payable to the Department for  
5           each cigarette machine operator's license is \$250.

6           (c) It shall be unlawful for a cigarette machine operator  
7           to permit the use of such machine within the State unless the  
8           license fee has been paid and is evidenced by a license  
9           conspicuously affixed to the machine. Each cigarette machine  
10          operator doing business in the State on the effective date of  
11          this amendatory Act of the 97th General Assembly shall register  
12          with the Department within 30 days after the effective date of  
13          this amendatory Act of the 97th General Assembly.

14          (d) Notwithstanding the foregoing, no cigarette machine  
15          operator shall offer a cigarette machine for use unless such  
16          machine is constructed and maintained to allow the cigarette  
17          machine operator or manufacturer thereof to maintain an  
18          electronic count of the number of cigarette tubes used in that  
19          machine. In order to verify the payment of the assessment  
20          imposed in Section 10 of this Act, the cigarette machine  
21          operator shall report to the Department, on a return provided  
22          by the Department, the total number of tubes used in each  
23          machine during the preceding month.

24          Section 20. Application of Retailers' Occupation Tax  
25          provisions. All the provisions of Sections 4, 5, 5a, 5b, 5c,

1 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, and 13  
2 of the Retailers' Occupation Tax Act that are not inconsistent  
3 with this Act apply, as far as practicable, to the tax imposed  
4 by this Act to the same extent as if those provisions were  
5 included in this Act. References in the incorporated Sections  
6 of the Retailers' Occupation Tax Act to retailers, to sellers,  
7 or to persons engaged in the business of selling tangible  
8 personal property mean cigarette machine operators.

9 Section 30. Hearing; notice.

10 (a) The Department may adopt and enforce any reasonable  
11 rule to administer and enforce the tax imposed by this Act.

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

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

1 County, then the hearing must be held in Cook County. If the  
2 operator 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 (d) If any proceeding under this Act has been begun by the  
6 Department or by a person subject thereto and that person  
7 subsequently dies or becomes a person under legal disability  
8 before the proceeding has been concluded, then the legal  
9 representative of the deceased person or person under legal  
10 disability shall notify the Department of the death or legal  
11 disability. The Department must substitute the legal  
12 representative, as such, in place of and for the person. Within  
13 20 days after notice to the legal representative of the time  
14 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 Section 35. Administrative procedures. The Illinois  
18 Administrative Procedure Act is expressly adopted and applies  
19 to all administrative rules and procedures of the Department  
20 under this Act, except that: (1) paragraph (b) of Section 4 of  
21 the Illinois Administrative Procedure Act does not apply to  
22 final orders, decisions, and opinions of the Department; (2)  
23 subparagraph (a) (2) of Section 4 of the Illinois Administrative  
24 Procedure Act does not apply to forms established by the  
25 Department for use under this Act; and (3) the provisions of

1 Section 13 of the Illinois Administrative Procedure Act  
2 regarding proposals for decision are excluded and not  
3 applicable to the Department under this Act.

4 Section 40. Review under the Administrative Review Law.

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

19 (b) The provisions of the Administrative Review Law apply  
20 to and govern all proceedings for the judicial review of final  
21 administrative decisions of the Department under this Title.  
22 The term "administrative decision" is defined as in Section  
23 3-101 of the Code of Civil Procedure.

24 (c) Service of summons issued in any action to review a  
25 final administrative decision upon the Director or Assistant

1 Director of Revenue shall be service upon the Department. The  
2 Department shall certify the record of its proceedings if the  
3 taxpayer pays to it the sum of \$0.75 per page of testimony  
4 taken before the Department and \$0.25 per page of all other  
5 matters contained in the record, except that these charges may  
6 be waived if the Department is satisfied that the aggrieved  
7 party cannot afford to pay these charges."