

# HB5943



## 99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5943

by Rep. Michael Unes

### SYNOPSIS AS INTRODUCED:

35 ILCS 120/2-51

Amends the Retailers' Occupation Tax Act. Makes a technical change in a Section concerning rolling stock.

LRB099 18685 HLH 43068 b

A BILL FOR

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 2-51 as follows:

6 (35 ILCS 120/2-51)

7 Sec. 2-51. Motor vehicles; trailers; use as rolling stock  
8 definition.

9 (a) Through June 30, 2003, "use as rolling stock moving in  
10 interstate commerce" in paragraphs (12) and (13) of Section 2-5  
11 means for motor vehicles, as defined in Section 1-146 of the  
12 ~~the~~ Illinois Vehicle Code, and trailers, as defined in Section  
13 1-209 of the Illinois Vehicle Code, when on 15 or more  
14 occasions in a 12-month period the motor vehicle and trailer  
15 has carried persons or property for hire in interstate  
16 commerce, even just between points in Illinois, if the motor  
17 vehicle and trailer transports persons whose journeys or  
18 property whose shipments originate or terminate outside  
19 Illinois. This definition applies to all property purchased for  
20 the purpose of being attached to those motor vehicles or  
21 trailers as a part thereof.

22 (b) On and after July 1, 2003 and through June 30, 2004,  
23 "use as rolling stock moving in interstate commerce" in

1 paragraphs (12) and (13) of Section 2-5 occurs for motor  
2 vehicles, as defined in Section 1-146 of the Illinois Vehicle  
3 Code, when during a 12-month period the rolling stock has  
4 carried persons or property for hire in interstate commerce for  
5 51% of its total trips and transports persons whose journeys or  
6 property whose shipments originate or terminate outside  
7 Illinois. Trips that are only between points in Illinois shall  
8 not be counted as interstate trips when calculating whether the  
9 tangible personal property qualifies for the exemption but such  
10 trips shall be included in total trips taken.

11 (c) Beginning July 1, 2004, "use as rolling stock moving in  
12 interstate commerce" in paragraphs (12) and (13) of Section 2-5  
13 occurs for motor vehicles, as defined in Section 1-146 of the  
14 Illinois Vehicle Code, when during a 12-month period the  
15 rolling stock has carried persons or property for hire in  
16 interstate commerce for greater than 50% of its total trips for  
17 that period or for greater than 50% of its total miles for that  
18 period. The person claiming the exemption shall make an  
19 election at the time of purchase to use either the trips or  
20 mileage method. Persons who purchased motor vehicles prior to  
21 July 1, 2004 shall make an election to use either the trips or  
22 mileage method and document that election in their books and  
23 records. If no election is made under this subsection to use  
24 the trips or mileage method, the person shall be deemed to have  
25 chosen the mileage method.

26 For purposes of determining qualifying trips or miles,

1 motor vehicles that carry persons or property for hire, even  
2 just between points in Illinois, will be considered used for  
3 hire in interstate commerce if the motor vehicle transports  
4 persons whose journeys or property whose shipments originate or  
5 terminate outside Illinois. The exemption for motor vehicles  
6 used as rolling stock moving in interstate commerce may be  
7 claimed only for the following vehicles: (i) motor vehicles  
8 whose gross vehicle weight rating exceeds 16,000 pounds; and  
9 (ii) limousines, as defined in Section 1-139.1 of the Illinois  
10 Vehicle Code. This definition applies to all property purchased  
11 for the purpose of being attached to those motor vehicles as a  
12 part thereof.

13 (d) Beginning July 1, 2004, "use as rolling stock moving in  
14 interstate commerce" in paragraphs (12) and (13) of Section 2-5  
15 occurs for trailers, as defined in Section 1-209 of the  
16 Illinois Vehicle Code, semitrailers as defined in Section 1-187  
17 of the Illinois Vehicle Code, and pole trailers as defined in  
18 Section 1-161 of the Illinois Vehicle Code, when during a  
19 12-month period the rolling stock has carried persons or  
20 property for hire in interstate commerce for greater than 50%  
21 of its total trips for that period or for greater than 50% of  
22 its total miles for that period. The person claiming the  
23 exemption for a trailer or trailers that will not be dedicated  
24 to a motor vehicle or group of motor vehicles shall make an  
25 election at the time of purchase to use either the trips or  
26 mileage method. Persons who purchased trailers prior to July 1,

1 2004 that are not dedicated to a motor vehicle or group of  
2 motor vehicles shall make an election to use either the trips  
3 or mileage method and document that election in their books and  
4 records. If no election is made under this subsection to use  
5 the trips or mileage method, the person shall be deemed to have  
6 chosen the mileage method.

7 For purposes of determining qualifying trips or miles,  
8 trailers, semitrailers, or pole trailers that carry property  
9 for hire, even just between points in Illinois, will be  
10 considered used for hire in interstate commerce if the  
11 trailers, semitrailers, or pole trailers transport property  
12 whose shipments originate or terminate outside Illinois. This  
13 definition applies to all property purchased for the purpose of  
14 being attached to those trailers, semitrailers, or pole  
15 trailers as a part thereof. In lieu of a person providing  
16 documentation regarding the qualifying use of each individual  
17 trailer, semitrailer, or pole trailer, that person may document  
18 such qualifying use by providing documentation of the  
19 following:

20 (1) If a trailer, semitrailer, or pole trailer is  
21 dedicated to a motor vehicle that qualifies as rolling  
22 stock moving in interstate commerce under subsection (c) of  
23 this Section, then that trailer, semitrailer, or pole  
24 trailer qualifies as rolling stock moving in interstate  
25 commerce under this subsection.

26 (2) If a trailer, semitrailer, or pole trailer is

1 dedicated to a group of motor vehicles that all qualify as  
2 rolling stock moving in interstate commerce under  
3 subsection (c) of this Section, then that trailer,  
4 semitrailer, or pole trailer qualifies as rolling stock  
5 moving in interstate commerce under this subsection.

6 (3) If one or more trailers, semitrailers, or pole  
7 trailers are dedicated to a group of motor vehicles and not  
8 all of those motor vehicles in that group qualify as  
9 rolling stock moving in interstate commerce under  
10 subsection (c) of this Section, then the percentage of  
11 those trailers, semitrailers, or pole trailers that  
12 qualifies as rolling stock moving in interstate commerce  
13 under this subsection is equal to the percentage of those  
14 motor vehicles in that group that qualify as rolling stock  
15 moving in interstate commerce under subsection (c) of this  
16 Section to which those trailers, semitrailers, or pole  
17 trailers are dedicated. However, to determine the  
18 qualification for the exemption provided under this item  
19 (3), the mathematical application of the qualifying  
20 percentage to one or more trailers, semitrailers, or pole  
21 trailers under this subpart shall not be allowed as to any  
22 fraction of a trailer, semitrailer, or pole trailer.

23 (e) For aircraft and watercraft purchased on or after  
24 January 1, 2014, "use as rolling stock moving in interstate  
25 commerce" in paragraphs (12) and (13) of Section 2-5 occurs  
26 when, during a 12-month period, the rolling stock has carried

1 persons or property for hire in interstate commerce for greater  
2 than 50% of its total trips for that period or for greater than  
3 50% of its total miles for that period. The person claiming the  
4 exemption shall make an election at the time of purchase to use  
5 either the trips or mileage method and document that election  
6 in their books and records. If no election is made under this  
7 subsection to use the trips or mileage method, the person shall  
8 be deemed to have chosen the mileage method. For aircraft,  
9 flight hours may be used in lieu of recording miles in  
10 determining whether the aircraft meets the mileage test in this  
11 subsection. For watercraft, nautical miles or trip hours may be  
12 used in lieu of recording miles in determining whether the  
13 watercraft meets the mileage test in this subsection.

14 Notwithstanding any other provision of law to the contrary,  
15 property purchased on or after January 1, 2014 for the purpose  
16 of being attached to aircraft or watercraft as a part thereof  
17 qualifies as rolling stock moving in interstate commerce only  
18 if the aircraft or watercraft to which it will be attached  
19 qualifies as rolling stock moving in interstate commerce under  
20 the test set forth in this subsection (e), regardless of when  
21 the aircraft or watercraft was purchased. Persons who purchased  
22 aircraft or watercraft prior to January 1, 2014 shall make an  
23 election to use either the trips or mileage method and document  
24 that election in their books and records for the purpose of  
25 determining whether property purchased on or after January 1,  
26 2014 for the purpose of being attached to aircraft or

1 watercraft as a part thereof qualifies as rolling stock moving  
2 in interstate commerce under this subsection (e).

3 (f) The election to use either the trips or mileage method  
4 made under the provisions of subsections (c), (d), or (e) of  
5 this Section will remain in effect for the duration of the  
6 purchaser's ownership of that item.

7 (Source: P.A. 98-584, eff. 8-27-13.)