

# HB4739



## 100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4739

by Rep. Barbara Wheeler

### SYNOPSIS AS INTRODUCED:

35 ILCS 175/10  
730 ILCS 5/5-9-1.21

Amends the Live Adult Entertainment Facility Surcharge Act. Doubles the amount of the surcharge imposed under the Act. Provides that 50% of the proceeds collected under the Act shall be deposited into the Sexual Assault Services and Prevention Fund and 50% of the proceeds collected from the surcharge imposed under the Act shall be deposited into the Specialized Services for Survivors of Human Trafficking Fund, less amounts which are required to be paid into the Tax Compliance and Administration Fund. Amends the Unified Code of Corrections to make conforming changes.

LRB100 18635 HLH 33862 b

FISCAL NOTE ACT  
MAY APPLY

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 Live Adult Entertainment Facility Surcharge  
5 Act is amended by changing Section 10 as follows:

6 (35 ILCS 175/10)

7 Sec. 10. Surcharge imposed; returns.

8 (a) An annual surcharge is imposed upon each operator who  
9 operates a live adult entertainment facility in this State. By  
10 January 20, 2014, and by January 20 of each year thereafter,  
11 each operator shall elect to pay the surcharge according to  
12 either item (1) or item (2) of this subsection.

13 (1) With respect to the surcharge covering a calendar  
14 year ending on or before December 31, 2018, an ~~An~~ operator  
15 who elects to be subject to this item (1) shall pay to the  
16 Department a surcharge imposed upon admissions to a live  
17 adult entertainment facility operated by the operator in  
18 this State in an amount equal to \$3 per person admitted to  
19 that live adult entertainment facility. With respect to the  
20 surcharge covering a calendar year ending after December  
21 31, 2018, an operator who elects to be subject to this item  
22 (1) shall pay to the Department a surcharge imposed upon by  
23 the operator in this State in an amount equal to \$6 per

1 person admitted to that live adult facility. This item (1)  
2 does not require a live entertainment facility to impose a  
3 fee on a customer of the facility. An operator has the  
4 discretion to determine the manner in which the facility  
5 derives the moneys required to pay the surcharge imposed  
6 under this Section. In the event that an operator has not  
7 filed the applicable returns under the Retailers'  
8 Occupation Tax Act for a full calendar year prior to any  
9 January 20, then such operator shall pay the surcharge  
10 under this Act pursuant to this item (1) for moneys owed to  
11 the Department subject to this Act for the previous  
12 calendar year.

13 (2) An operator may, in the alternative, pay to the  
14 Department the surcharge as follows:

15 (A) With respect to the surcharge covering a  
16 calendar year ending on or before December 31, 2018, if  
17 ~~if~~ the gross receipts received by the live adult  
18 entertainment facility during the preceding calendar  
19 year, upon the basis of which a tax is imposed under  
20 Section 2 of the Retailers' Occupation Tax Act, are  
21 equal or greater than \$2,000,000 during the preceding  
22 calendar year, and if the operator elects to be subject  
23 to this item (2), then the operator shall pay the  
24 Department a surcharge of \$25,000. With respect to the  
25 surcharge covering a calendar year ending after  
26 December 31, 2018, if the gross receipts received by

1 the live adult entertainment facility during the  
2 preceding calendar year, upon the basis of which a tax  
3 is imposed under Section 2 of the Retailers' Occupation  
4 Tax Act, are equal or greater than \$2,000,000 during  
5 the preceding calendar year, and if the operator elects  
6 to be subject to this item (2), then the operator shall  
7 pay the Department a surcharge of \$50,000.

8 (B) With respect to the surcharge covering a  
9 calendar year ending after December 31, 2018, if ~~if~~ the  
10 gross receipts received by the live adult  
11 entertainment facility during the preceding calendar  
12 year, upon the basis of which a tax is imposed under  
13 Section 2 of the Retailers' Occupation Tax Act, are  
14 equal to or greater than \$500,000 but less than  
15 \$2,000,000 during the preceding calendar year, and if  
16 the operator elects to be subject to this item (2),  
17 then the operator shall pay to the Department a  
18 surcharge of \$15,000. With respect to the surcharge  
19 covering a calendar year ending after December 31,  
20 2018, if the gross receipts received by the live adult  
21 entertainment facility during the preceding calendar  
22 year, upon the basis of which a tax is imposed under  
23 Section 2 of the Retailers' Occupation Tax Act, are  
24 equal to or greater than \$500,000 but less than  
25 \$2,000,000 during the preceding calendar year, and if  
26 the operator elects to be subject to this item (2),

1           then the operator shall pay to the Department a  
2           surcharge of \$30,000.

3           (C) With respect to the surcharge covering a  
4           calendar year ending after December 31, 2018, if ~~if~~ the  
5           gross receipts received by the live adult  
6           entertainment facility during the preceding calendar  
7           year, upon the basis of which a tax is imposed under  
8           Section 2 of the Retailers' Occupation Tax Act, are  
9           less than \$500,000 during the preceding calendar year,  
10          and if the operator elects to be subject to this item  
11          (2), then the operator shall pay the Department a  
12          surcharge of \$5,000. With respect to the surcharge  
13          covering a calendar year ending after December 31,  
14          2018, if the gross receipts received by the live adult  
15          entertainment facility during the preceding calendar  
16          year, upon the basis of which a tax is imposed under  
17          Section 2 of the Retailers' Occupation Tax Act, are  
18          less than \$500,000 during the preceding calendar year,  
19          and if the operator elects to be subject to this item  
20          (2), then the operator shall pay the Department a  
21          surcharge of \$10,000.

22          (b) For each live adult entertainment facility paying the  
23          surcharge as set forth in item (1) of subsection (a) of this  
24          Section, the operator must file a return electronically as  
25          provided by the Department and remit payment to the Department  
26          on an annual basis no later than January 20 covering the

1 previous calendar year. Each return made to the Department must  
2 state the following:

3 (1) the name of the operator;

4 (2) the address of the live adult entertainment  
5 facility and the address of the principal place of business  
6 (if that is a different address) of the operator;

7 (3) the total number of admissions to the facility in  
8 the preceding calendar year; and

9 (4) the total amount of surcharge collected in the  
10 preceding calendar year.

11 Notwithstanding any other provision of this subsection  
12 concerning the time within which an operator may file his or  
13 her return, if an operator ceases to operate a live adult  
14 entertainment facility, then he or she must file a final return  
15 under this Act with the Department not more than one calendar  
16 month after discontinuing that business.

17 (c) For each live adult entertainment facility paying the  
18 surcharge as set forth in item (2) of subsection (a) of this  
19 Section, the operator must file a return electronically as  
20 provided by the Department and remit payment to the Department  
21 on an annual basis no later than January 20 covering the  
22 previous calendar year. Each return made to the Department must  
23 state the following:

24 (1) the name of the operator;

25 (2) the address of the live adult entertainment  
26 facility and the address of the principal place of business

1 (if that is a different address) of the operator;

2 (3) the gross receipts received by the live adult  
3 entertainment facility during the preceding calendar year,  
4 upon the basis of which tax is imposed under Section 2 of  
5 the Retailers' Occupation Tax Act; and

6 (4) the applicable surcharge from Section 10(a)(2) of  
7 this Act to be paid by the operator.

8 Notwithstanding any other provision of this subsection  
9 concerning the time within which an operator may file his or  
10 her return, if an operator ceases to operate a live adult  
11 entertainment facility, then he or she must file a final return  
12 under this Act with the Department not more than one calendar  
13 month after discontinuing that business.

14 (d) Beginning January 1, 2014, and ending on December 31,  
15 2018, the Department shall pay all proceeds collected from the  
16 surcharge imposed under this Act into the Sexual Assault  
17 Services and Prevention Fund, less 2% of those proceeds, which  
18 shall be paid into the Tax Compliance and Administration Fund  
19 in the State treasury from which it shall be appropriated to  
20 the Department to cover the costs of the Department in  
21 administering and enforcing the provisions of this Act.  
22 Beginning on January 1, 2019, the Department shall pay (i) 50%  
23 of the proceeds collected from the surcharge imposed under this  
24 Act into the Sexual Assault Services and Prevention Fund and  
25 (ii) 50% of the proceeds collected from the surcharge imposed  
26 under this Act into the Specialized Services for Survivors of

1 Human Trafficking Fund, less 2% of those proceeds, which shall  
2 be paid into the Tax Compliance and Administration Fund in the  
3 State treasury from which it shall be appropriated to the  
4 Department to cover the costs of Department in administering  
5 and enforcing the provisions of this Act.

6 (Source: P.A. 97-1035, eff. 1-1-13.)

7 Section 10. The Unified Code of Corrections is amended by  
8 changing Section 5-9-1.21 as follows:

9 (730 ILCS 5/5-9-1.21)

10 Sec. 5-9-1.21. Specialized Services for Survivors of Human  
11 Trafficking Fund.

12 (a) There is created in the State treasury a Specialized  
13 Services for Survivors of Human Trafficking Fund. Moneys  
14 deposited into the Fund under this Section shall be available  
15 for the Department of Human Services for the purposes in this  
16 Section.

17 (b) Each plea of guilty, stipulation of facts, or finding  
18 of guilt resulting in a judgment of conviction or order of  
19 supervision for an offense under Section 10-9, 11-14.1,  
20 11-14.3, or 11-18 of the Criminal Code of 2012 that results in  
21 the imposition of a fine shall have a portion of that fine  
22 deposited into the Specialized Services for Survivors of Human  
23 Trafficking Fund.

24 (b-5) The Fund may receive, in addition to any source



1 identified under this Section, any moneys required to be  
2 deposited into the Fund under Section 10 of the Live Adult  
3 Entertainment Facility Surcharge Act.

4 (c) If imposed, the fine shall be collected by the circuit  
5 court clerk in addition to any other imposed fee. The circuit  
6 court clerk shall retain \$50 to cover the costs in  
7 administering and enforcing this Section. The circuit court  
8 clerk shall remit the remainder of the fine within one month of  
9 its receipt as follows:

10 (1) \$300 shall be distributed equally between all State  
11 law enforcement agencies whose officers or employees  
12 conducted the investigation or prosecution that resulted  
13 in the finding of guilt; and

14 (2) the remainder of the fine shall be remitted to the  
15 Department of Human Services for deposit into the  
16 Specialized Services for Survivors of Human Trafficking  
17 Fund.

18 (d) Upon appropriation of moneys from the Specialized  
19 Services for Survivors of Human Trafficking Fund, the  
20 Department of Human Services shall use these moneys to make  
21 grants to non-governmental organizations to provide  
22 specialized, trauma-informed services specifically designed to  
23 address the priority service needs associated with  
24 prostitution and human trafficking. Priority services include,  
25 but are not limited to, community based drop-in centers,  
26 emergency housing, and long-term safe homes. The Department

1 shall consult with prostitution and human trafficking  
2 advocates, survivors, and service providers to identify  
3 priority service needs in their respective communities.

4 (e) Grants made under this Section are in addition to, and  
5 not substitutes for, other grants authorized and made by the  
6 Department.

7 (f) Notwithstanding any other law to the contrary, the  
8 Specialized Services for Survivors of Human Trafficking Fund is  
9 not subject to sweeps, administrative charge-backs, or any  
10 other fiscal maneuver that would in any way transfer any  
11 amounts from the Specialized Services for Survivors of Human  
12 Trafficking Fund into any other fund of the State.

13 (Source: P.A. 98-1013, eff. 1-1-15.)