

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 publicly-traded corporation, the
2 name and title of each corporate officer, along with a copy of
3 the corporation's most recently filed form 10-K required by the
4 United States Securities and Exchange Commission, and in the
5 case of all other corporations ~~a corporation~~, the name, title,
6 and social security number of each corporate officer; (6) in
7 the case of a limited liability company, the name, social
8 security number, and FEIN number of each manager and member;
9 and (7) such other information as the Department may reasonably
10 require. The application shall contain an acceptance of
11 responsibility signed by the person or persons who will be
12 responsible for filing returns and payment of the taxes due
13 under this Act. If the applicant will sell tangible personal
14 property at retail through vending machines, his application to
15 register shall indicate the number of vending machines to be so
16 operated. If requested by the Department at any time, that
17 person shall verify the total number of vending machines he or
18 she uses in his or her business of selling tangible personal
19 property at retail.

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

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

1 applicant is or has been the owner, a partner, a manager or
2 member of a limited liability company, or a corporate officer
3 of another retailer whose certificate of registration has been
4 revoked within the previous 5 years under this Act or any other
5 tax or fee Act administered by the Department. If a bond or
6 other security is required, the Department shall fix the amount
7 of the bond or other security, taking into consideration the
8 amount of money expected to become due from the applicant under
9 this Act and under any other State tax law or municipal or
10 county tax ordinance or resolution under which the certificate
11 of registration that is issued to the applicant under this Act
12 will permit the applicant to engage in business without
13 registering separately under such other law, ordinance, or
14 resolution. The amount of security required by the Department
15 shall be such as, in its opinion, will protect the State of
16 Illinois against failure to pay the amount which may become due
17 from the applicant under this Act and under any other State tax
18 law or municipal or county tax ordinance or resolution under
19 which the certificate of registration that is issued to the
20 applicant under this Act will permit the applicant to engage in
21 business without registering separately under such other law,
22 ordinance or resolution, but the amount of the security
23 required by the Department shall not exceed three times the
24 amount of the applicant's average monthly tax liability, or
25 \$50,000.00, whichever amount is lower.

26 No certificate of registration under this Act shall be

1 issued by the Department until the applicant provides the
2 Department with satisfactory security, if required, as herein
3 provided for.

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

16 No certificate of registration issued to a taxpayer who
17 files returns required by this Act on a monthly basis shall be
18 valid after the expiration of 5 years from the date of its
19 issuance or last renewal. The expiration date of a
20 sub-certificate of registration shall be that of the
21 certificate of registration to which the sub-certificate
22 relates. A certificate of registration shall automatically be
23 renewed, subject to revocation as provided by this Act, for an
24 additional 5 years from the date of its expiration unless
25 otherwise notified by the Department as provided by this
26 paragraph. Where a taxpayer to whom a certificate of

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

23 The Department may in its discretion approve renewal by an
24 applicant who is in default if, at the time of application for
25 renewal, the applicant files all of the delinquent returns or
26 pays to the Department such percentage of the defaulted amount

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

15 The Department may suspend a certificate of registration if
16 the Department finds that the person to whom the certificate of
17 registration has been issued knowingly sold contraband
18 cigarettes.

19 A certificate of registration issued under this Act more
20 than 5 years before the effective date of this amendatory Act
21 of 1989 shall expire and be subject to the renewal provisions
22 of this Section on the next anniversary of the date of issuance
23 of such certificate which occurs more than 6 months after the
24 effective date of this amendatory Act of 1989. A certificate of
25 registration issued less than 5 years before the effective date
26 of this amendatory Act of 1989 shall expire and be subject to

1 the renewal provisions of this Section on the 5th anniversary
2 of the issuance of the certificate.

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

13 If the applicant will sell tangible personal property at
14 retail through vending machines, the Department shall furnish
15 him with a sub-certificate of registration for each such
16 vending machine, and the applicant shall display the
17 appropriate sub-certificate of registration on each such
18 vending machine by attaching the sub-certificate of
19 registration to a conspicuous part of such vending machine. If
20 a person who is registered to sell tangible personal property
21 at retail through vending machines adds an additional vending
22 machine or additional vending machines to the number of vending
23 machines he or she uses in his or her business of selling
24 tangible personal property at retail, he or she shall notify
25 the Department, on a form prescribed by the Department, to
26 request an additional sub-certificate or additional

1 sub-certificates of registration, as applicable. With each
2 such request, the applicant shall report the number of
3 sub-certificates of registration he or she is requesting as
4 well as the total number of vending machines from which he or
5 she makes retail sales.

6 Where the same person engages in 2 or more businesses of
7 selling tangible personal property at retail in this State,
8 which businesses are substantially different in character or
9 engaged in under different trade names or engaged in under
10 other substantially dissimilar circumstances (so that it is
11 more practicable, from an accounting, auditing or bookkeeping
12 standpoint, for such businesses to be separately registered),
13 the Department may require or permit such person (subject to
14 the same requirements concerning the furnishing of security as
15 those that are provided for hereinbefore in this Section as to
16 each application for a certificate of registration) to apply
17 for and obtain a separate certificate of registration for each
18 such business or for any of such businesses, under a single
19 certificate of registration supplemented by related
20 sub-certificates of registration.

21 Any person who is registered under the "Retailers'
22 Occupation Tax Act" as of March 8, 1963, and who, during the
23 3-year period immediately prior to March 8, 1963, or during a
24 continuous 3-year period part of which passed immediately
25 before and the remainder of which passes immediately after
26 March 8, 1963, has been so registered continuously and who is

1 determined by the Department not to have been either delinquent
2 or deficient in the payment of tax liability during that period
3 under this Act or under any other State tax law or municipal or
4 county tax ordinance or resolution under which the certificate
5 of registration that is issued to the registrant under this Act
6 will permit the registrant to engage in business without
7 registering separately under such other law, ordinance or
8 resolution, shall be considered to be a Prior Continuous
9 Compliance taxpayer. Also any taxpayer who has, as verified by
10 the Department, faithfully and continuously complied with the
11 condition of his bond or other security under the provisions of
12 this Act for a period of 3 consecutive years shall be
13 considered to be a Prior Continuous Compliance taxpayer.

14 Every Prior Continuous Compliance taxpayer shall be exempt
15 from all requirements under this Act concerning the furnishing
16 of a bond or other security as a condition precedent to his
17 being authorized to engage in the business of selling tangible
18 personal property at retail in this State. This exemption shall
19 continue for each such taxpayer until such time as he may be
20 determined by the Department to be delinquent in the filing of
21 any returns, or is determined by the Department (either through
22 the Department's issuance of a final assessment which has
23 become final under the Act, or by the taxpayer's filing of a
24 return which admits tax that is not paid to be due) to be
25 delinquent or deficient in the paying of any tax under this Act
26 or under any other State tax law or municipal or county tax

1 ordinance or resolution under which the certificate of
2 registration that is issued to the registrant under this Act
3 will permit the registrant to engage in business without
4 registering separately under such other law, ordinance or
5 resolution, at which time that taxpayer shall become subject to
6 all the financial responsibility requirements of this Act and,
7 as a condition of being allowed to continue to engage in the
8 business of selling tangible personal property at retail, may
9 be required to post bond or other acceptable security with the
10 Department covering liability which such taxpayer may
11 thereafter incur. Any taxpayer who fails to pay an admitted or
12 established liability under this Act may also be required to
13 post bond or other acceptable security with this Department
14 guaranteeing the payment of such admitted or established
15 liability.

16 No certificate of registration shall be issued to any
17 person who is in default to the State of Illinois for moneys
18 due under this Act or under any other State tax law or
19 municipal or county tax ordinance or resolution under which the
20 certificate of registration that is issued to the applicant
21 under this Act will permit the applicant to engage in business
22 without registering separately under such other law, ordinance
23 or resolution.

24 Any person aggrieved by any decision of the Department
25 under this Section may, within 20 days after notice of such
26 decision, protest and request a hearing, whereupon the

1 Department shall give notice to such person of the time and
2 place fixed for such hearing and shall hold a hearing in
3 conformity with the provisions of this Act and then issue its
4 final administrative decision in the matter to such person. In
5 the absence of such a protest within 20 days, the Department's
6 decision shall become final without any further determination
7 being made or notice given.

8 With respect to security other than bonds (upon which the
9 Department may sue in the event of a forfeiture), if the
10 taxpayer fails to pay, when due, any amount whose payment such
11 security guarantees, the Department shall, after such
12 liability is admitted by the taxpayer or established by the
13 Department through the issuance of a final assessment that has
14 become final under the law, convert the security which that
15 taxpayer has furnished into money for the State, after first
16 giving the taxpayer at least 10 days' written notice, by
17 registered or certified mail, to pay the liability or forfeit
18 such security to the Department. If the security consists of
19 stocks or bonds or other securities which are listed on a
20 public exchange, the Department shall sell such securities
21 through such public exchange. If the security consists of an
22 irrevocable bank letter of credit, the Department shall convert
23 the security in the manner provided for in the Uniform
24 Commercial Code. If the security consists of a bank certificate
25 of deposit, the Department shall convert the security into
26 money by demanding and collecting the amount of such bank

1 certificate of deposit from the bank which issued such
2 certificate. If the security consists of a type of stocks or
3 other securities which are not listed on a public exchange, the
4 Department shall sell such security to the highest and best
5 bidder after giving at least 10 days' notice of the date, time
6 and place of the intended sale by publication in the "State
7 Official Newspaper". If the Department realizes more than the
8 amount of such liability from the security, plus the expenses
9 incurred by the Department in converting the security into
10 money, the Department shall pay such excess to the taxpayer who
11 furnished such security, and the balance shall be paid into the
12 State Treasury.

13 The Department shall discharge any surety and shall release
14 and return any security deposited, assigned, pledged or
15 otherwise provided to it by a taxpayer under this Section
16 within 30 days after:

17 (1) such taxpayer becomes a Prior Continuous
18 Compliance taxpayer; or

19 (2) such taxpayer has ceased to collect receipts on
20 which he is required to remit tax to the Department, has
21 filed a final tax return, and has paid to the Department an
22 amount sufficient to discharge his remaining tax
23 liability, as determined by the Department, under this Act
24 and under every other State tax law or municipal or county
25 tax ordinance or resolution under which the certificate of
26 registration issued under this Act permits the registrant

1 to engage in business without registering separately under
2 such other law, ordinance or resolution. The Department
3 shall make a final determination of the taxpayer's
4 outstanding tax liability as expeditiously as possible
5 after his final tax return has been filed; if the
6 Department cannot make such final determination within 45
7 days after receiving the final tax return, within such
8 period it shall so notify the taxpayer, stating its reasons
9 therefor.

10 (Source: P.A. 96-1355, eff. 7-28-10; 97-335, eff. 1-1-12.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.