Sen. Patrick J. Joyce

Filed: 5/14/2026

AMENDMENT TO SENATE BILL 3843

AMENDMENT NO. ______. Amend Senate Bill 3843 by replacing everything after the enacting clause with the following:

"Section 5. The Use Tax Act is amended by changing Section 2d as follows:

(35 ILCS 105/2d)

Sec. 2d. Marketplace facilitators and marketplace sellers.

(a) As used in this Section:

"Affiliate" means a person that, with respect to another person: (i) has a direct or indirect ownership interest of more than 5 percent in the other person; or (ii) is related to the other person because a third person, or a group of third persons who are affiliated with each other as defined in this subsection, holds a direct or indirect ownership interest of more than 5% in the related person.

"Bicycle" has the meaning given to that term in the

Illinois Vehicle Code.

"Delivery network company" means a person that maintains a website, mobile application, or nondigital platform that is used to facilitate delivery services that are performed or otherwise conducted by a delivery network courier.

"Delivery network courier" means an individual who provides delivery services through a delivery network company by using a personal means of transportation, including, but not limited to, a motor vehicle, bicycle, scooter, or other similar mode of transportation, or by walking. "Delivery network courier" does not include a common carrier or a motor carrier.

"Delivery services" means the pickup and delivery of tangible personal property by a delivery network courier from a seller located in this State to a customer located in this State, which may include the selection, collection, and purchase of the tangible personal property in connection with the delivery. "Delivery services" does not include a delivery requiring more than 75 miles of travel from the seller to the customer.

"Marketplace" means a physical or electronic place, forum, platform, application, or other method by which a marketplace seller sells or offers to sell items.

"Marketplace facilitator" means a person who, pursuant to an agreement with an unrelated third-party marketplace seller, directly or indirectly through one or more affiliates facilitates a retail sale by an unrelated third party marketplace seller by:

(1) listing or advertising for sale by the marketplace seller in a marketplace, tangible personal property that is subject to tax under this Act; and

(2) either directly or indirectly, through agreements or arrangements with third parties, collecting payment from the customer and transmitting that payment to the marketplace seller regardless of whether the marketplace facilitator receives compensation or other consideration in exchange for its services.

"Marketplace seller" means a person that sells or offers to sell tangible personal property through a marketplace operated by an unrelated third-party marketplace facilitator.

"Motor vehicle" has the meaning given to that term in the Illinois Vehicle Code.

"Qualified delivery network sale" means a sale that meets all of the following requirements:

(1) the sale is made as part of a delivery service facilitated by a delivery network company;

(2) the sale is sourced to this State under this Act; and

(3) the tax imposed by this Act on the sale is reported and remitted by the delivery network company.

(b) Beginning on January 1, 2020 and through December 31, 2025, a marketplace facilitator who meets either of the following thresholds is considered the retailer for each sale of tangible personal property made through its marketplace:

(1) the cumulative gross receipts from sales of tangible personal property to purchasers in Illinois by the marketplace facilitator and by marketplace sellers selling through the marketplace are $100,000 or more; or

(2) the marketplace facilitator and marketplace sellers selling through the marketplace cumulatively enter into 200 or more separate transactions for the sale of tangible personal property to purchasers in Illinois.

A marketplace facilitator shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether the marketplace facilitator meets the threshold of either paragraph (1) or (2) of this subsection (b) for the preceding 12-month period. If the marketplace facilitator meets the threshold of either paragraph (1) or (2) for a 12-month period, the marketplace facilitator is considered a retailer maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and file returns for one year. At the end of that one-year period, the marketplace facilitator shall determine whether the marketplace facilitator met the threshold of either paragraph (1) or (2) during the preceding 12-month period. If the marketplace facilitator met the threshold in either paragraph (1) or (2) for the preceding 12-month period, the marketplace facilitator is considered a retailer maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and file returns for the subsequent year. If at the end of a one-year period a marketplace facilitator that was required to collect and remit the tax imposed under this Act determines that the marketplace facilitator did not meet the threshold in either paragraph (1) or (2) during the preceding 12-month period, the marketplace facilitator shall subsequently determine on a quarterly basis, ending on the last day of March, June, September, and December, whether the marketplace facilitator meets the threshold of either paragraph (1) or (2) for the preceding 12-month period.

(b-5) Beginning on January 1, 2026, a marketplace facilitator whose cumulative gross receipts from sales of tangible personal property to purchasers in Illinois by the marketplace facilitator and by marketplace sellers selling through the marketplace are $100,000 or more is considered the retailer for each sale of tangible personal property made through its marketplace.

A marketplace facilitator shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether the marketplace facilitator meets the threshold in this subsection (b-5) for the preceding 12-month period. If the marketplace facilitator meets the threshold for a 12-month period, the marketplace facilitator is considered a retailer maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and file returns for one year. At the end of the one-year period, the marketplace facilitator shall determine whether the marketplace facilitator met the threshold during the preceding 12-month period. If the marketplace facilitator met the threshold for the preceding 12-month period, the marketplace facilitator is considered a retailer maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and file returns for the subsequent year. If at the end of a one-year period a marketplace facilitator that was required to collect and remit the tax imposed under this Act determines that the marketplace facilitator did not meet the threshold during the preceding 12-month period, the marketplace facilitator shall subsequently determine on a quarterly basis, ending on the last day of March, June, September, and December, whether the marketplace facilitator meets the threshold for the preceding 12-month period.

(c) Beginning on January 1, 2020 a marketplace facilitator considered to be the retailer pursuant to subsection (b) or (b-5) of this Section is considered the retailer with respect to each sale made through its marketplace and is liable for collecting and remitting the tax under this Act on all such sales. The marketplace facilitator who is considered to be the retailer under subsection (b) or (b-5) for sales made through its marketplace has all the rights and duties, and is required to comply with the same requirements and procedures, as all other retailers maintaining a place of business in this State who are registered or who are required to be registered to collect and remit the tax imposed by this Act with respect to such sales.

(d) A marketplace facilitator shall:

(1) certify to each marketplace seller that the marketplace facilitator assumes the rights and duties of a retailer under this Act with respect to sales made by the marketplace seller through the marketplace; and

(2) collect taxes imposed by this Act as required by Section 3-45 of this Act for sales made through the marketplace.

(e) A marketplace seller shall retain books and records for all sales made through a marketplace in accordance with the requirements of Section 11.

(f) A marketplace seller shall furnish to the marketplace facilitator information that is necessary for the marketplace facilitator to correctly collect and remit taxes for a retail sale. The information may include a certification that an item being sold is taxable, not taxable, exempt from taxation, or taxable at a specified rate. A marketplace seller shall be held harmless for liability for the tax imposed under this Act when a marketplace facilitator fails to correctly collect and remit tax after having been provided with information by a marketplace seller to correctly collect and remit taxes imposed under this Act.

(g) If the marketplace facilitator demonstrates to the satisfaction of the Department that its failure to correctly collect and remit tax on a retail sale resulted from the marketplace facilitator's good faith reliance on incorrect or insufficient information provided by a marketplace seller, it shall be relieved of liability for the tax on that retail sale. In this case, a marketplace seller is liable for any resulting tax due.

(h) (Blank).

(i) This Section does not affect the tax liability of a purchaser under this Act.

(j) (Blank).

(k) A marketplace facilitator required to collect taxes imposed under this Section and this Act on retail sales made through its marketplace shall be liable to the Department for such taxes, except when the marketplace facilitator is relieved of the duty to remit such taxes by virtue of having paid to the Department taxes imposed by the Retailers' Occupation Tax Act upon his or her gross receipts from the same transactions.

(l) If, for any reason, the Department is prohibited from enforcing the marketplace facilitator's duty under this Act to collect and remit taxes pursuant to this Section, the duty to collect and remit such taxes reverts to the marketplace seller that is a retailer maintaining a place of business in this

State pursuant to Section 2.

(m) Nothing in this Section affects the obligation of any consumer to remit use tax for any taxable transaction for which a certified service provider acting on behalf of a remote retailer or a marketplace facilitator does not collect and remit the appropriate tax.

(n) For purposes of this Act, with respect to a qualified delivery network sale:

(1) The Department shall not assess tax under this Act on both the seller and the delivery network company with respect to the same qualified delivery network sale.

(2) The delivery network company may recover the tax imposed under this Act that is paid to a seller on a delivery network company sale if the delivery network company collects and remits the tax from the purchaser and the tax paid to the seller is separately stated on an invoice or other corroborating documentation. A delivery network company that is entitled to recover tax under this paragraph may reduce taxable receipts by the taxable amount of the delivery network company sale that is taxed by the seller. If the recovery is taken, a refund of the tax originally paid may not be requested from the seller.

(3) Nothing in this subsection (n) shall be construed to relieve the customer of liability for tax imposed under this Act on the transaction if the delivery network company fails to collect and remit the tax.

(Source: P.A. 104-6, eff. 6-16-25.)

Section 10. The Service Use Tax Act is amended by changing Section 2d as follows:

(35 ILCS 110/2d)

Sec. 2d. Marketplace facilitators and marketplace servicemen.

(a) Definitions. For purposes of this Section:

"Affiliate" means a person that, with respect to another person: (i) has a direct or indirect ownership interest of more than 5% in the other person; or (ii) is related to the other person because a third person, or group of third persons who are affiliated with each other as defined in this subsection, holds a direct or indirect ownership interest of more than 5% in the related person.

"Bicycle" has the meaning given to that term in the Illinois Vehicle Code.

"Delivery network company" means a person that maintains a website, mobile application, or nondigital platform that is used to facilitate delivery services that are performed or otherwise conducted by a delivery network courier.

"Delivery network courier" means an individual who provides delivery services through a delivery network company by using a personal means of transportation, including, but not limited to, a motor vehicle, bicycle, scooter, or other

<u>similar mode of transportation, or by walking. "Delivery network courier" does not include a common carrier or a motor carrier.</u>

<u>"Delivery services" means the pickup and delivery of tangible personal property by a delivery network courier from a seller located in this State to a customer located in this State, which may include the selection, collection, and purchase of the tangible personal property in connection with the delivery. "Delivery services" does not include a delivery requiring more than 75 miles of travel from the seller to the customer.</u>

"Marketplace" means a physical or electronic place, forum, platform, application, or other method by which a marketplace serviceman makes or offers to make sales of service.

"Marketplace facilitator" means a person who, pursuant to an agreement with an unrelated third-party marketplace serviceman, directly or indirectly through one or more affiliates facilitates sales of service by that unrelated third-party marketplace serviceman through:

(1) listing or advertising for sale by the marketplace serviceman in a marketplace, sales of service that are subject to tax under this Act; and

(2) either directly or indirectly, through agreements or arrangements with third parties, collecting payment from the customer and transmitting that payment to the marketplace serviceman regardless of whether the

marketplace facilitator receives compensation or other consideration in exchange for its services.

"Marketplace serviceman" means a person that makes or offers to make a sale of service through a marketplace operated by an unrelated third-party marketplace facilitator.

<u>"Motor vehicle" has the meaning given to that term in the Illinois Vehicle Code.</u>

<u>"Qualified delivery network sale" means a sale that meets all of the following requirements:</u>

<u>(1) the sale is made as part of a delivery service facilitated by a delivery network company;</u>

<u>(2) the sale is sourced to this State under this Act; and</u>

<u>(3) the tax imposed by this Act on the sale is reported and remitted by the delivery network company.</u>

(b) Beginning January 1, 2020 and through December 31, 2025, a marketplace facilitator who meets either of the following thresholds is considered the serviceman for each sale of service made through its marketplace:

(1) the cumulative gross receipts from sales of service to purchasers in Illinois by the marketplace facilitator and by marketplace servicemen selling through the marketplace are $100,000 or more; or

(2) the marketplace facilitator and marketplace servicemen selling through the marketplace cumulatively enter into 200 or more separate transactions for the sale

of service to purchasers in Illinois.

A marketplace facilitator shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether the marketplace facilitator meets the threshold of either paragraph (1) or (2) of this subsection (b) for the preceding 12-month period. If the marketplace facilitator meets the threshold of either paragraph (1) or (2) for a 12-month period, it is considered a serviceman maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and file returns for one year. At the end of that one-year period, the marketplace facilitator shall determine whether the marketplace facilitator met the threshold of either paragraph (1) or (2) during the preceding 12-month period. If the marketplace facilitator met the threshold in either paragraph (1) or (2) for the preceding 12-month period, it is considered a serviceman maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and file returns for the subsequent year. If, at the end of a one-year period, a marketplace facilitator that was required to collect and remit the tax imposed under this Act determines that it did not meet the threshold in either paragraph (1) or (2) during the preceding 12-month period, the marketplace facilitator shall subsequently determine on a quarterly basis, ending on the last day of March, June, September, and December, whether it meets the threshold of either paragraph

(1) or (2) for the preceding 12-month period.

(b-5) Beginning on January 1, 2026, a marketplace facilitator whose cumulative gross receipts from sales of service to purchasers in Illinois by the marketplace facilitator and by marketplace servicemen selling through the marketplace are $100,000 or more is engaged in the business of making sales of service in Illinois for purposes of this Act for each sale of service made through the marketplace.

A marketplace facilitator shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether the marketplace facilitator meets the threshold in this subsection (b-5) for the preceding 12-month period. If the marketplace facilitator meets the threshold for a 12-month period, the marketplace facilitator is considered a serviceman maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and file returns for one year. At the end of the one-year period, the marketplace facilitator shall determine whether the marketplace facilitator met the threshold during the preceding 12-month period. If the marketplace facilitator met the threshold for the preceding 12-month period, the marketplace facilitator is considered a serviceman maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and file returns for the subsequent year. If at the end of a one-year period a marketplace facilitator that was required to collect and remit the tax imposed under this Act determines that the marketplace facilitator did not meet the threshold during the preceding 12-month period, the marketplace facilitator shall subsequently determine on a quarterly basis, ending on the last day of March, June, September, and December, whether it meets the threshold for the preceding 12-month period.

(c) A marketplace facilitator considered to be the serviceman pursuant to subsection (b) or, beginning January 1, 2026, subsection (b-5) of this Section is considered the serviceman for each sale of service made through its marketplace and is liable for collecting and remitting the tax under this Act on all such sales. The marketplace facilitator has all the rights and duties, and is required to comply with the same requirements and procedures, as all other servicemen maintaining a place of business in this State who are registered or who are required to be registered to collect and remit the tax imposed by this Act with respect to such sales.

(d) A marketplace facilitator shall:

(1) certify to each marketplace serviceman that the marketplace facilitator assumes the rights and duties of a serviceman under this Act with respect to sales of service made by the marketplace serviceman through the marketplace; and

(2) collect taxes imposed by this Act as required by Section 3-40 of this Act for sales of service made through the marketplace.

(e) A marketplace serviceman shall retain books and records for all sales of service made through a marketplace in accordance with the requirements of Section 11.

(f) A marketplace serviceman shall furnish to the marketplace facilitator information that is necessary for the marketplace facilitator to correctly collect and remit taxes for a sale of service. Such information includes the cost price of any item transferred incident to a sale of service under this Act when the cost price of an item exceeds 50% of the entire billing to the service customer of a sale of service made through the marketplace. The information may include a certification that an item transferred incident to a sale of service under this Act is taxable, not taxable, exempt from taxation, or taxable at a specified rate. A marketplace serviceman shall be held harmless for liability for the tax imposed under this Act when a marketplace facilitator fails to correctly collect and remit tax after having been provided with information by a marketplace serviceman to correctly collect and remit taxes imposed under this Act.

(g) If the marketplace facilitator demonstrates to the satisfaction of the Department that its failure to correctly collect and remit tax on a sale of service resulted from the marketplace facilitator's good faith reliance on incorrect or insufficient information provided by a marketplace serviceman, it shall be relieved of liability for the tax on that sale of service. In this case, a marketplace serviceman is liable for any resulting tax due.

(h) (Blank).

(i) This Section does not affect the tax liability of a purchaser under this Act.

(j) (Blank).

(k) A marketplace facilitator required to collect taxes imposed under this Section and this Act on sales of service made through its marketplace shall be liable to the Department for such taxes, except when the marketplace facilitator is relieved of the duty to remit such taxes by virtue of having paid to the Department taxes imposed by the Service Occupation Tax Act from the same transactions.

(l) If, for any reason, the Department is prohibited from enforcing the marketplace facilitator's duty under this Act to collect and remit taxes pursuant to this Section, the duty to collect and remit such taxes reverts to the marketplace serviceman that is a serviceman maintaining a place of business in this State pursuant to Section 2.

(m) Nothing in this Section affects the obligation of any consumer to remit service use tax for any taxable transaction for which a certified service provider acting on behalf of a serviceman maintaining a place of business in this State or a marketplace facilitator does not collect and remit the appropriate tax.

(n) For purposes of this Act with respect to a qualified delivery network sale:

(1) The delivery network company shall be deemed to be purchasing the tangible personal property from the marketplace seller for resale to the customer incident to a sale of service, and the transfer of tangible personal property by the marketplace seller to the delivery network company shall be treated as a sale for resale and not as a taxable transfer to the user.

(2) The transfer of the tangible personal property by the delivery network company to the customer in connection with the delivery services shall be treated as the taxable transfer incident to a sale of service that is subject to tax under this Act.

(3) The delivery network company shall be considered the serviceman's vendor for purposes of this Act with respect to the qualified delivery network sale and shall be liable for collecting and remitting the tax imposed under this Act on the user with respect to that transaction. Notwithstanding this paragraph, a delivery network company shall not, by virtue of being treated as the retailer, serviceman, or user's vendor under this Act, be deemed a retail licensee for the sale or resale of items subject to subsection (b) of 27 U.S.C. 205, 27 CFR part 6, or any corresponding State law.

(4) The Department shall not assess tax under this Act on both the marketplace seller and the delivery network company with respect to the same qualified delivery

network sale.

(5) No tax shall be imposed under this Act on the transfer of tangible personal property from the marketplace seller to the delivery network company if the delivery network company provides to the marketplace seller documentation, in the form and manner prescribed by the Department, certifying that the purchase is made for resale to the customer in a qualified delivery network sale.

(6) The Department shall, by rule, prescribe the form of the resale documentation described in paragraph (5), which may include the use of a blanket resale certificate covering multiple qualified delivery network sales between the same parties.

(7) Nothing in this subsection shall be construed to relieve the customer of liability for tax imposed under this Act on the transaction if the delivery network company fails to collect and remit the tax.

(Source: P.A. 104-6, eff. 6-16-25.)

Section 15. The Service Occupation Tax Act is amended by changing Section 3 as follows:

(35 ILCS 115/3) (from Ch. 120, par. 439.103)

Sec. 3. Tax imposed.

(a) A tax is imposed upon all persons engaged in the business of making sales of service (referred to as "servicemen") on all tangible personal property transferred, including, on and after January 1, 2025, transferred by lease, as an incident of a sale of service, including computer software, and including photographs, negatives, and positives that are the product of photoprocessing, but not including products of photoprocessing produced for use in motion pictures for public commercial exhibition. Beginning January 1, 2001, prepaid telephone calling arrangements shall be considered tangible personal property subject to the tax imposed under this Act regardless of the form in which those arrangements may be embodied, transmitted, or fixed by any method now known or hereafter developed. Sales of (1) electricity delivered to customers by wire; (2) natural or artificial gas that is delivered to customers through pipes, pipelines, or mains; and (3) water that is delivered to customers through pipes, pipelines, or mains are not subject to tax under this Act. The provisions of this amendatory Act of the 98th General Assembly are declaratory of existing law as to the meaning and scope of this Act.

(b) Beginning on January 1, 2026, a serviceman maintaining a place of business in this State that makes sales of service to Illinois customers from a location or locations outside of Illinois is engaged in the business of making sales of service in Illinois for the purposes of this Act. A qualifying serviceman under this subsection (b) is liable for all applicable State and locally imposed service occupation taxes administered by the Department on all tangible personal property transferred as an incident of a sale of service made by the serviceman to Illinois customers from locations outside of Illinois.

(c) A serviceman maintaining a place of business in this State that is required to collect taxes imposed under the Service Use Tax Act on sales of service made to Illinois purchasers shall be liable to the Department for such taxes, except when the serviceman maintaining a place of business in this State is relieved of the duty to remit such taxes by virtue of having paid to the Department taxes imposed by this Act in accordance with this Section upon such sales.

(d) Beginning January 1, 2026, a marketplace facilitator whose cumulative gross receipts from sales of service to purchasers in Illinois by the marketplace facilitator and by marketplace servicemen selling through the marketplace are $100,000 or more is engaged in the business of making sales of service in Illinois for purposes of this Act for each sale of service made through its marketplace.

A marketplace facilitator who meets the threshold of this subsection (d) is required to remit the applicable State service occupation taxes under this Act and local service occupation taxes administered by the Department on all taxable transfers of tangible personal property made incident to sales of service by the marketplace facilitator or facilitated for marketplace servicemen to customers in this State. A marketplace facilitator transferring or facilitating the transfer of tangible personal property incident to a sale of service to customers in this State is subject to all applicable procedures and requirements of this Act.

The marketplace facilitator shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether the marketplace facilitator meets the threshold of this subsection (d) for the preceding 12-month period. If the marketplace facilitator meets the threshold for a 12-month period, the marketplace facilitator is considered a serviceman maintaining a place of business in this State and is required to remit the tax imposed under this Act and all service occupation tax imposed by local taxing jurisdictions in Illinois, provided such local taxes are administered by the Department, and to file all applicable returns for one year. At the end of the one-year period, the marketplace facilitator shall determine whether the marketplace facilitator met the threshold for the preceding 12-month period. If the marketplace facilitator met the threshold for the preceding 12-month period, the marketplace facilitator is considered a serviceman maintaining a place of business in this State and is required to remit all applicable State and local service occupation taxes and file returns for the subsequent year. If at the end of a one-year period a marketplace facilitator that was required to remit the tax imposed under this Act determines that the marketplace facilitator did not meet the threshold during the preceding 12-month period, the marketplace facilitator shall subsequently determine on a quarterly basis, ending on the last day of March, June, September, and December, whether he or she meets the threshold for the preceding 12-month period.

(e) A marketplace facilitator shall be entitled to any credits, deductions, or adjustments to the sales price otherwise provided to the marketplace serviceman, in addition to any such adjustments provided directly to the marketplace facilitator. This Section pertains to, but is not limited to, adjustments such as discounts, coupons, and rebates. In addition, a marketplace facilitator shall be entitled to the vendors' discount provided in Section 9 of the Service Occupation Tax Act on all marketplace sales of service, and the marketplace serviceman shall not include sales of service made through a marketplace facilitator when computing any vendors' discount on remaining sales of service. Marketplace facilitators shall report and remit the applicable State and local service occupation taxes on sales of service facilitated for marketplace servicemen separately from any service occupation or service use tax collected on taxable sales of service made directly by the marketplace facilitator or its affiliates.

The marketplace facilitator is liable for the remittance of all applicable State service occupation taxes under this

Act and local service occupation taxes administered by the Department on sales of service through the marketplace and is subject to audit on all such sales of service. The Department shall not audit marketplace servicemen for their marketplace sales of service where a marketplace facilitator remitted the applicable State and local service occupation taxes unless the marketplace facilitator seeks relief as a result of incorrect information provided to the marketplace facilitator by a marketplace serviceman as set forth in this Section. The marketplace facilitator shall not be held liable for tax on any sales of service made by a marketplace serviceman that take place outside of the marketplace and which are not a part of any agreement between a marketplace facilitator and a marketplace serviceman. In addition, marketplace facilitators shall not be held liable to State and local governments of Illinois for having charged and remitted an incorrect amount of State and local service occupation tax if, at the time of the sale of service, the tax is computed based on erroneous data provided by the State in database files on tax rates, boundaries, or taxing jurisdictions or incorrect information provided to the marketplace facilitator by the marketplace serviceman, including the marketplace serviceman's cost ratio and registration status.

(f) A marketplace facilitator shall:

(1) certify to each marketplace serviceman that the marketplace facilitator assumes the rights and duties of a

serviceman under this Act with respect to sales of service made by the marketplace serviceman through the marketplace; and

(2) remit taxes imposed by this Act as required by this Act for sales of service made through the marketplace.

(g) A marketplace serviceman shall retain books and records for all sales of service made through a marketplace in accordance with the requirements of Section 11 of this Act.

(h) A marketplace serviceman shall furnish to the marketplace facilitator information that is necessary for the marketplace facilitator to correctly remit taxes for a sale of service. Such information includes the cost price of any item transferred incident to a sale of service under this Act when the cost price of an item exceeds 50% of the total invoice price of a sale of service made through the marketplace. The information may include a certification that an item transferred incident to a sale of service under this Act is taxable, not taxable, exempt from taxation, or taxable at a specified rate. A marketplace serviceman shall be held harmless for liability for the tax imposed under this Act when a marketplace facilitator fails to correctly collect and remit tax after having been provided with information by a marketplace serviceman to correctly collect and remit taxes imposed under this Act.

(i) If the marketplace facilitator demonstrates to the satisfaction of the Department that its failure to correctly collect and remit tax on a sale of service resulted from the marketplace facilitator's good faith reliance on incorrect or insufficient information provided by a marketplace serviceman, it shall be relieved of liability for the tax on that sale of service and the marketplace serviceman shall be liable for any resulting tax due.

(j) A marketplace facilitator is subject to audit on all marketplace sales of service for which it is considered to be the serviceman, but shall not be liable for tax or subject to audit on sales of service made by marketplace servicemen outside of the marketplace.

(k) A marketplace facilitator required to collect taxes imposed under the Service Use Tax Act on marketplace sales of service made to Illinois purchasers shall be liable to the Department for such taxes, except when the marketplace facilitator is relieved of the duty to remit such taxes by virtue of having paid to the Department taxes imposed by this Act in accordance with this Section from such sales of service.

(l) Nothing in this Section shall allow the Department to collect service occupation taxes from both the marketplace facilitator and marketplace serviceman on the same transaction.

(m) If, for any reason, the Department is prohibited from enforcing the marketplace facilitator's duty under this Act to remit taxes pursuant to this Section, the duty to remit such taxes remains with the marketplace serviceman.

(n) Notwithstanding any provision of law, with respect to a qualified delivery network sale made on or after the effective date of this amendatory Act of the 104th General Assembly:

(1) The delivery network company shall be deemed to be purchasing the tangible personal property from the marketplace seller for resale incident to a sale of service to the customer, and the transfer of tangible personal property by the marketplace seller to the delivery network company shall be treated as a sale for resale and not as a taxable transfer incident to a sale of service.

(2) The transfer of the tangible personal property by the delivery network company to the customer in connection with the delivery services shall be treated as the taxable transfer of tangible personal property incident to a sale of service that is subject to tax under this Act if the transaction is otherwise taxable.

(3) The delivery network company shall be considered the serviceman with respect to the qualified delivery network sale and shall be liable for payment of the tax imposed under this Act and all applicable locally imposed service occupation taxes administered by the Department on that transaction. Notwithstanding the provisions of this

subsection, a delivery network company shall not, by virtue of being treated as the retailer, serviceman, or user's vendor under this Act, be deemed a retail licensee for the sale or resale of items subject to subsection (b) of 27 U.S.C. 205, 27 CFR part 6, or any corresponding State law.

(4) The Department shall not assess tax under this Act on both the marketplace seller and the delivery network company with respect to the same qualified delivery network sale.

(5) No tax shall be imposed under this Act on the transfer of tangible personal property from the marketplace seller to the delivery network company if the delivery network company provides to the marketplace seller documentation, in the form and manner prescribed by the Department, certifying that the purchase is made for resale to the customer in a qualified delivery network sale.

(6) The Department shall, by rule, prescribe the form of the resale documentation described in paragraph (5), which may include the use of a blanket resale certificate covering multiple qualified delivery network sales between the same parties.

(7) Nothing in this subsection shall be construed to relieve the customer of liability for tax imposed under this Act on the transaction if the delivery network

company fails to collect and remit the tax.

As used in this subsection (n):

"Bicycle" has the meaning given to that term in the Illinois Vehicle Code.

"Delivery network company" means a person that maintains a website, mobile application, or nondigital platform that is used to facilitate delivery services that are performed or otherwise conducted by a delivery network courier.

"Delivery network courier" means an individual who provides delivery services through a delivery network company by using a personal means of transportation, including, but not limited to, a motor vehicle, bicycle, scooter, or other similar mode of transportation, or by walking. "Delivery network courier" does not include a common carrier or a motor carrier.

"Delivery services" means the pickup and delivery of tangible personal property by a delivery network courier from a seller located in this State to a customer located in this State, which may include the selection, collection, and purchase of the tangible personal property in connection with the delivery. "Delivery services" does not include a delivery requiring more than 75 miles of travel from the seller to the customer.

"Motor vehicle" has the meaning given to that term in the Illinois Vehicle Code.

"Qualified delivery network sale" means a sale that meets all of the following requirements:

(1) the sale is made as part of a delivery service facilitated by a delivery network company;

(2) the sale is sourced to this State under this Act; and

(3) the tax imposed by this Act on the sale is reported and remitted by the delivery network company.

(o) The imposition of the tax under this Act on tangible personal property transferred by lease by persons engaged in the business of making sales of service applies to leases in effect, entered into, or renewed on or after January 1, 2025. In the case of leases, except as otherwise provided in this Act, the serviceman who is a lessor must remit for each tax return period only the tax applicable to that part of the selling price actually received during such tax return period.
(Source: P.A. 103-592, eff. 1-1-25; 104-6, eff. 6-16-25.)

Section 20. The Retailers' Occupation Tax Act is amended by changing Section 2 as follows:

(35 ILCS 120/2)

Sec. 2. Tax imposed.

(a) A tax is imposed upon persons engaged in the business of selling at retail, which, on and after January 1, 2025, includes leasing, tangible personal property, including computer software, and including photographs, negatives, and positives that are the product of photoprocessing, but not including products of photoprocessing produced for use in motion pictures for public commercial exhibition. Beginning January 1, 2001, prepaid telephone calling arrangements shall be considered tangible personal property subject to the tax imposed under this Act regardless of the form in which those arrangements may be embodied, transmitted, or fixed by any method now known or hereafter developed.

The imposition of the tax under this Act on persons engaged in the business of leasing tangible personal property applies to leases in effect, entered into, or renewed on or after January 1, 2025. In the case of leases, except as otherwise provided in this Act, the lessor must remit, for each tax return period, only the tax applicable to that part of the selling price actually received during such tax return period.

The inclusion of leases in the tax imposed under this Act by Public Act 103-592 does not, however, extend to motor vehicles, watercraft, aircraft, and semitrailers, as defined in Section 1-187 of the Illinois Vehicle Code, that are required to be registered with an agency of this State. The taxation of these items shall continue in effect as prior to the effective date of the changes made to this Section by Public Act 103-592 (i.e., dealers owe retailers' occupation tax, lessors owe use tax, and lessees are not subject to retailers' occupation or use tax).

Sales of (1) electricity delivered to customers by wire; (2) natural or artificial gas that is delivered to customers through pipes, pipelines, or mains; and (3) water that is delivered to customers through pipes, pipelines, or mains are not subject to tax under this Act. The provisions of Public Act 98-583 are declaratory of existing law as to the meaning and scope of this Act.

(b) Beginning on January 1, 2021 and through December 31, 2025, a remote retailer is engaged in the occupation of selling at retail in Illinois for purposes of this Act, if:

(1) the cumulative gross receipts from sales of tangible personal property to purchasers in Illinois are $100,000 or more; or

(2) the retailer enters into 200 or more separate transactions for the sale of tangible personal property to purchasers in Illinois.

Remote retailers that meet or exceed the threshold in either paragraph (1) or (2) above shall be liable for all applicable State retailers' and locally imposed retailers' occupation taxes administered by the Department on all retail sales to Illinois purchasers.

The remote retailer shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether it meets the threshold of either paragraph (1) or (2) of this subsection for the preceding 12-month period. If the retailer meets the threshold of either paragraph (1) or (2) for a 12-month period, he or she is considered a retailer maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and all retailers' occupation tax imposed by local taxing jurisdictions in Illinois, provided such local taxes are administered by the Department, and to file all applicable returns for one year. At the end of that one-year period, the retailer shall determine whether the retailer met the threshold of either paragraph (1) or (2) for the preceding 12-month period. If the retailer met the threshold in either paragraph (1) or (2) for the preceding 12-month period, it is considered a retailer maintaining a place of business in this State and is required to collect and remit all applicable State and local retailers' occupation taxes and file returns for the subsequent year. If, at the end of a one-year period, a retailer that was required to collect and remit the tax imposed under this Act determines that it did not meet the threshold in either paragraph (1) or (2) during the preceding 12-month period, then the retailer shall subsequently determine on a quarterly basis, ending on the last day of March, June, September, and December, whether the retailer met the threshold of either paragraph (1) or (2) for the preceding 12-month period.

(b-1) Beginning on January 1, 2026, a remote retailer is engaged in the occupation of selling at retail in Illinois for purposes of this Act if the remote retailer's cumulative gross receipts from sales of tangible personal property to purchasers in Illinois are $100,000 or more.

Remote retailers that meet or exceed the threshold in this subsection (b-1) shall be liable for all applicable State and locally imposed retailers' occupation taxes administered by the Department on all retail sales to Illinois purchasers.

The remote retailer shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether the remote retailer meets the threshold of this subsection (b-1) for the preceding 12-month period. If the remote retailer meets the threshold for a 12-month period, the remote retailer is considered to be engaged in the occupation of selling at retail in Illinois and is required to remit the tax imposed under this Act and all retailers' occupation tax imposed by local taxing jurisdictions in Illinois, provided such local taxes are administered by the Department, and to file all applicable returns for one year. At the end of the one-year period, the remote retailer shall determine whether the remote retailer met the threshold for the preceding 12-month period. If the retailer met the threshold for the preceding 12-month period, the remote retailer is considered to be engaged in the occupation of selling at retail in Illinois and is required to remit all applicable State and local retailers' occupation taxes and file returns for the subsequent year. If, at the end of a one-year period, a remote retailer that was required to remit the tax imposed under this Act determines that the remote retailer did not meet the threshold during the preceding 12-month period, then the remote retailer shall subsequently determine on a quarterly basis, ending on the last day of March, June, September, and December, whether the remote retailer met the threshold for the preceding 12-month period.

(b-2) Beginning on January 1, 2025, a retailer maintaining a place of business in this State that makes retail sales of tangible personal property to Illinois customers from a location or locations outside of Illinois is engaged in the occupation of selling at retail in Illinois for the purposes of this Act. Those retailers are liable for all applicable State and locally imposed retailers' occupation taxes administered by the Department on retail sales made by those retailers to Illinois customers from locations outside of Illinois.

(b-5) For the purposes of this Section, neither the gross receipts from nor, until January 1, 2026, the number of separate transactions for sales of tangible personal property to purchasers in Illinois that a remote retailer makes through a marketplace facilitator shall be included for the purposes of determining whether he or she has met the thresholds of subsection (b) or (b-1) of this Section so long as the remote retailer has received certification from the marketplace facilitator that the marketplace facilitator is legally responsible for payment of tax on such sales.

(b-10) A remote retailer that is required to collect taxes imposed under the Use Tax Act on retail sales made to Illinois purchasers or a retailer maintaining a place of business in this State that is required to collect taxes imposed under the Use Tax Act on retail sales made to Illinois purchasers shall be liable to the Department for such taxes, except when the remote retailer or retailer maintaining a place of business in this State is relieved of the duty to remit such taxes by virtue of having paid to the Department taxes imposed by this Act in accordance with this Section upon his or her gross receipts from such sales.

(c) Marketplace facilitators engaged in the business of selling at retail tangible personal property in Illinois. Beginning January 1, 2021 and through December 31, 2025, a marketplace facilitator is engaged in the occupation of selling at retail tangible personal property in Illinois for purposes of this Act if, during the previous 12-month period:

(1) the cumulative gross receipts from sales of tangible personal property on its own behalf or on behalf of marketplace sellers to purchasers in Illinois equals $100,000 or more; or

(2) the marketplace facilitator enters into 200 or more separate transactions on its own behalf or on behalf of marketplace sellers for the sale of tangible personal property to purchasers in Illinois, regardless of whether the marketplace facilitator or marketplace sellers for

whom such sales are facilitated are registered as retailers in this State.

A marketplace facilitator who meets either paragraph (1) or (2) of this subsection is required to remit the applicable State retailers' occupation taxes under this Act and local retailers' occupation taxes administered by the Department on all taxable sales of tangible personal property made by the marketplace facilitator or facilitated for marketplace sellers to customers in this State. A marketplace facilitator selling or facilitating the sale of tangible personal property to customers in this State is subject to all applicable procedures and requirements of this Act.

The marketplace facilitator shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether it meets the threshold of either paragraph (1) or (2) of this subsection for the preceding 12-month period. If the marketplace facilitator meets the threshold of either paragraph (1) or (2) for a 12-month period, the marketplace facilitator is considered a retailer maintaining a place of business in this State and is required to remit the tax imposed under this Act and all retailers' occupation tax imposed by local taxing jurisdictions in Illinois, provided such local taxes are administered by the Department, and to file all applicable returns for one year. At the end of that one-year period, the marketplace facilitator shall determine whether it met the threshold of either paragraph (1) or (2) for the preceding 12-month period. If the marketplace facilitator met the threshold in either paragraph (1) or (2) for the preceding 12-month period, it is considered a retailer maintaining a place of business in this State and is required to collect and remit all applicable State and local retailers' occupation taxes and file returns for the subsequent year. If at the end of a one-year period a marketplace facilitator that was required to collect and remit the tax imposed under this Act determines that it did not meet the threshold in either paragraph (1) or (2) during the preceding 12-month period, the marketplace facilitator shall subsequently determine on a quarterly basis, ending on the last day of March, June, September, and December, whether it met the threshold of either paragraph (1) or (2) for the preceding 12-month period.

(c-5) Beginning January 1, 2026, a marketplace facilitator is engaged in the occupation of selling at retail tangible personal property in Illinois for purposes of this Act if, during the previous 12-month period the cumulative gross receipts from sales of tangible personal property on its own behalf or on behalf of marketplace sellers to purchasers in Illinois equals $100,000 or more.

A marketplace facilitator who meets the threshold of this subsection is required to remit the applicable State retailers' occupation taxes under this Act and local retailers' occupation taxes administered by the Department on all taxable sales of tangible personal property made by the marketplace facilitator or facilitated for marketplace sellers to customers in this State. A marketplace facilitator selling or facilitating the sale of tangible personal property to customers in this State is subject to all applicable procedures and requirements of this Act.

The marketplace facilitator shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether the marketplace facilitator meets the threshold of this subsection (c-5) for the preceding 12-month period. If the marketplace facilitator meets the threshold for a 12-month period, the marketplace facilitator is considered to be engaged in the occupation of selling at retail in Illinois and is required to remit the tax imposed under this Act and all retailers' occupation tax imposed by local taxing jurisdictions in Illinois, provided such local taxes are administered by the Department, and to file all applicable returns for one year. At the end of the one-year period, the marketplace facilitator shall determine whether the marketplace facilitator met the threshold for the preceding 12-month period. If the marketplace facilitator met the threshold for the preceding 12-month period, the marketplace facilitator is considered to be engaged in the occupation of selling at retail in Illinois and is required to collect and remit all applicable State and local retailers' occupation taxes and file returns for the subsequent year. If at the end of a one-year period a marketplace facilitator that was required to collect and remit the tax imposed under this Act determines that the marketplace facilitator did not meet the threshold during the preceding 12-month period, the marketplace facilitator shall subsequently determine on a quarterly basis, ending on the last day of March, June, September, and December, whether it met the threshold for the preceding 12-month period.

(c-10) A marketplace facilitator shall be entitled to any credits, deductions, or adjustments to the sales price otherwise provided to the marketplace seller, in addition to any such adjustments provided directly to the marketplace facilitator. This Section pertains to, but is not limited to, adjustments such as discounts, coupons, and rebates. In addition, a marketplace facilitator shall be entitled to the retailers' discount provided in Section 3 of the Retailers' Occupation Tax Act on all marketplace sales, and the marketplace seller shall not include sales made through a marketplace facilitator when computing any retailers' discount on remaining sales. Marketplace facilitators shall report and remit the applicable State and local retailers' occupation taxes on sales facilitated for marketplace sellers separately from any sales or use tax collected on taxable retail sales made directly by the marketplace facilitator or its affiliates.

The marketplace facilitator is liable for the remittance of all applicable State retailers' occupation taxes under this

Act and local retailers' occupation taxes administered by the Department on sales through the marketplace and is subject to audit on all such sales. The Department shall not audit marketplace sellers for their marketplace sales where a marketplace facilitator remitted the applicable State and local retailers' occupation taxes unless the marketplace facilitator seeks relief as a result of incorrect information provided to the marketplace facilitator by a marketplace seller as set forth in this Section. The marketplace facilitator shall not be held liable for tax on any sales made by a marketplace seller that take place outside of the marketplace and which are not a part of any agreement between a marketplace facilitator and a marketplace seller. In addition, marketplace facilitators shall not be held liable to State and local governments of Illinois for having charged and remitted an incorrect amount of State and local retailers' occupation tax if, at the time of the sale, the tax is computed based on erroneous data provided by the State in database files on tax rates, boundaries, or taxing jurisdictions or incorrect information provided to the marketplace facilitator by the marketplace seller.

(d) A marketplace facilitator shall:

(1) certify to each marketplace seller that the marketplace facilitator assumes the rights and duties of a retailer under this Act with respect to sales made by the marketplace seller through the marketplace; and

(2) remit taxes imposed by this Act as required by this Act for sales made through the marketplace.

(e) A marketplace seller shall retain books and records for all sales made through a marketplace in accordance with the requirements of this Act.

(f) A marketplace facilitator is subject to audit on all marketplace sales for which it is considered to be the retailer, but shall not be liable for tax or subject to audit on sales made by marketplace sellers outside of the marketplace.

(g) A marketplace facilitator required to collect taxes imposed under the Use Tax Act on marketplace sales made to Illinois purchasers shall be liable to the Department for such taxes, except when the marketplace facilitator is relieved of the duty to remit such taxes by virtue of having paid to the Department taxes imposed by this Act in accordance with this Section upon his or her gross receipts from such sales.

(h) Nothing in this Section shall allow the Department to collect retailers' occupation taxes from both the marketplace facilitator and marketplace seller on the same transaction.

(i) If, for any reason, the Department is prohibited from enforcing the marketplace facilitator's duty under this Act to remit taxes pursuant to this Section, the duty to remit such taxes remains with the marketplace seller.

(j) (Blank).

(k) (Blank).

(l) A marketplace seller shall furnish to the marketplace facilitator information that is necessary for the marketplace facilitator to correctly remit taxes for a retail sale. The information may include a certification that an item being sold is taxable, not taxable, exempt from taxation, or taxable at a specified rate. A marketplace seller shall be held harmless for liability for the tax imposed under this Act when a marketplace facilitator fails to correctly remit tax after having been provided with information by a marketplace seller to correctly remit taxes imposed under this Act.

(m) If the marketplace facilitator demonstrates to the satisfaction of the Department that its failure to correctly remit tax on a retail sale resulted from the marketplace facilitator's good faith reliance on incorrect or insufficient information provided by a marketplace seller, it shall be relieved of liability for the tax on that retail sale and the marketplace seller shall be liable for any resulting tax due.

<u>(n) Notwithstanding any provision of law, with respect to a qualified delivery network sale made on or after the effective date of this amendatory Act of the 104th General Assembly:</u>

<u>(1) The transfer of the tangible personal property by the delivery network company to the customer in connection with the delivery services shall be treated as the taxable transfer of tangible personal property incident to a sale of service that is subject to tax under this Act if the</u>

transaction is otherwise taxable.

(2) The delivery network company shall be considered the retailer with respect to the qualified delivery network sale and shall be liable for payment of the tax imposed under this Act and all applicable locally imposed service occupation taxes administered by the Department on that transaction. Notwithstanding the provisions of this paragraph, a delivery network company shall not, by virtue of being treated as the retailer, serviceman, or user's vendor under this Act, be deemed a retail licensee for the sale or resale of items subject to subsection (b) of 27 U.S.C. 205, 27 CFR part 6, or any corresponding State law.

(3) The Department shall not assess the tax under this Act on both the marketplace seller and the delivery network company with respect to the same qualified delivery network sale.

(4) No tax shall be imposed under this Act on the transfer of tangible personal property from the marketplace seller to the delivery network company if the delivery network company provides to the marketplace seller documentation, in the form and manner prescribed by the Department, certifying that the purchase is made for resale to the customer in a qualified delivery network sale.

(5) The Department shall, by rule, prescribe the form of the resale documentation described in paragraph (4),

<u>which may include the use of a blanket resale certificate covering multiple qualified delivery network sales between the same parties.</u>

<u>(6) Nothing in this subsection shall be construed to relieve the customer of liability for tax imposed under this Act on the transaction if the delivery network company fails to collect and remit the tax.</u>

<u>As used in this subsection:</u>

<u>"Bicycle" has the meaning given to that term in the Illinois Vehicle Code.</u>

<u>"Delivery network company" means a person that maintains a website, mobile application, or nondigital platform that is used to facilitate delivery services that are performed or otherwise conducted by a delivery network courier.</u>

<u>"Delivery network courier" means an individual who provides delivery services through a delivery network company by using a personal means of transportation, including, but not limited to, a motor vehicle, bicycle, scooter, or other similar mode of transportation, or by walking. "Delivery network courier" does not include a common carrier or a motor carrier.</u>

<u>"Delivery services" means the pickup and delivery of tangible personal property by a delivery network courier from a seller located in this State to a customer located in this State, which may include the selection, collection, and purchase of the tangible personal property in connection with</u>

the delivery. "Delivery services" does not include a delivery requiring more than 75 miles of travel from the seller to the customer.

"Motor vehicle" has the meaning given to that term in the Illinois Vehicle Code.

"Qualified delivery network sale" means a sale that meets all of the following requirements:

(1) the sale is made as part of a delivery service facilitated by a delivery network company;

(2) the sale is sourced to this State under this Act; and

(3) the tax imposed by this Act on the sale is reported and remitted by the delivery network company.

(Source: P.A. 103-592, eff. 1-1-25; 103-983, eff. 1-1-25; 104-6, eff. 6-16-25.)".