



Sen. Celina Villanueva

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10200HB5189sam004

LRB102 24779 JDS 42005 a

1 AMENDMENT TO HOUSE BILL 5189

2 AMENDMENT NO. _____. Amend House Bill 5189, AS AMENDED,
3 with reference to page and line numbers of Senate Amendment
4 No. 1, on page 116, immediately above line 13 by inserting the
5 following:

6 "Section 20. The Illinois Municipal Code is amended by
7 changing Section 8-11-2.3 as follows:

8 (65 ILCS 5/8-11-2.3)

9 Sec. 8-11-2.3. Municipal Motor Fuel Tax Law.
10 Notwithstanding any other provision of law, in addition to any
11 other tax that may be imposed, a municipality in a county with
12 a population of over 3,000,000 inhabitants may also impose, by
13 ordinance, a tax upon all persons engaged in the municipality
14 in the business of selling motor fuel, as defined in the Motor
15 Fuel Tax Law, at retail for the operation of motor vehicles
16 upon public highways or for the operation of recreational

1 watercraft upon waterways. The tax may be imposed, in one cent
2 increments, at a rate not to exceed \$0.03 per gallon of motor
3 fuel sold at retail within the municipality for the purpose of
4 use or consumption and not for the purpose of resale. The tax
5 may not be imposed under this Section on aviation fuel, as
6 defined in Section 3 of the Retailers' Occupation Tax Act.

7 For purposes of this Section, a municipality is "in a
8 county with a population of over 3,000,000 inhabitants" if any
9 portion of the territory of the municipality is located in
10 such a county. Notwithstanding any provisions of this Section
11 to the contrary, a municipality whose territory lies partially
12 in a county with a population of over 3,000,000 inhabitants
13 and partially outside such a county may, in the alternative,
14 impose the tax authorized under this Section in only that
15 portion of the municipality that lies in a county with a
16 population of over 3,000,000 inhabitants.

17 Persons subject to any tax imposed under the authority
18 granted in this Section may reimburse themselves for their
19 seller's tax liability hereunder by separately stating that
20 tax as an additional charge, which charge may be stated in
21 combination, in a single amount, with State tax which sellers
22 are required to collect under the Use Tax Act, pursuant to such
23 bracket schedules as the Department may prescribe.

24 A tax imposed pursuant to this Section, and all civil
25 penalties that may be assessed as an incident thereof, shall
26 be administered, collected, and enforced by the Department of

1 Revenue in the same manner as the tax imposed under the
2 Retailers' Occupation Tax Act, as now or hereafter amended,
3 insofar as may be practicable; except that in the event of a
4 conflict with the provisions of this Section, this Section
5 shall control. The Department of Revenue shall have full power
6 to: administer and enforce this Section; collect all taxes and
7 penalties due hereunder; dispose of taxes and penalties so
8 collected in the manner hereinafter provided; and determine
9 all rights to credit memoranda arising on account of the
10 erroneous payment of tax or penalty hereunder.

11 Whenever the Department determines that a refund shall be
12 made under this Section to a claimant instead of issuing a
13 credit memorandum, the Department shall notify the State
14 Comptroller, who shall cause the order to be drawn for the
15 amount specified, and to the person named, in the notification
16 from the Department. The refund shall be paid by the State
17 Treasurer out of the Municipal Motor Fuel Tax Fund.

18 The Department shall immediately pay over to the State
19 Treasurer, ex officio, as trustee, all taxes and penalties
20 collected under this Section. Those taxes and penalties shall
21 be deposited into the Municipal Motor Fuel Tax Fund, a trust
22 fund created in the State treasury. Moneys in the Municipal
23 Motor Fuel Tax Fund shall be used to make payments to
24 municipalities and for the payment of refunds under this
25 Section.

26 On or before the 25th day of each calendar month, the

1 Department shall prepare and certify to the State Comptroller
2 the disbursement of stated sums of money to named
3 municipalities for which taxpayers have paid taxes or
4 penalties hereunder to the Department during the second
5 preceding calendar month. The amount to be paid to each
6 municipality shall be the amount (not including credit
7 memoranda) collected under this Section from retailers within
8 the municipality during the second preceding calendar month by
9 the Department, plus an amount the Department determines is
10 necessary to offset amounts that were erroneously paid to a
11 different municipality, and not including an amount equal to
12 the amount of refunds made during the second preceding
13 calendar month by the Department on behalf of the
14 municipality, and not including any amount that the Department
15 determines is necessary to offset any amounts that were
16 payable to a different municipality but were erroneously paid
17 to the municipality, less 1.5% of the remainder, which the
18 Department shall transfer into the Tax Compliance and
19 Administration Fund. The Department, at the time of each
20 monthly disbursement, shall prepare and certify to the State
21 Comptroller the amount to be transferred into the Tax
22 Compliance and Administration Fund under this Section. Within
23 10 days after receipt by the Comptroller of the disbursement
24 certification to the municipalities and the Tax Compliance and
25 Administration Fund provided for in this Section to be given
26 to the Comptroller by the Department, the Comptroller shall

1 cause the orders to be drawn for the respective amounts in
2 accordance with the directions contained in the certification.

3 Nothing in this Section shall be construed to authorize a
4 municipality to impose a tax upon the privilege of engaging in
5 any business which under the Constitution of the United States
6 may not be made the subject of taxation by this State.

7 An ordinance or resolution imposing or discontinuing the
8 tax under this Section or effecting a change in the rate
9 thereof shall either: (i) be adopted and a certified copy
10 thereof filed with the Department on or before the first day of
11 April, whereupon the Department shall proceed to administer
12 and enforce this Section as of the first day of July next
13 following the adoption and filing; or (ii) be adopted and a
14 certified copy thereof filed with the Department on or before
15 the first day of October, whereupon the Department shall
16 proceed to administer and enforce this Section as of the first
17 day of January next following the adoption and filing.

18 An ordinance adopted in accordance with the provisions of
19 this Section in effect before the effective date of this
20 amendatory Act of the 101st General Assembly shall be deemed
21 to impose the tax in accordance with the provisions of this
22 Section as amended by this amendatory Act of the 101st General
23 Assembly and shall be administered by the Department of
24 Revenue in accordance with the provisions of this Section as
25 amended by this amendatory Act of the 101st General Assembly;
26 provided that, on or before October 1, 2020, the municipality

1 adopts and files a certified copy of a superseding ordinance
2 that imposes the tax in accordance with the provisions of this
3 Section as amended by this amendatory Act of the 101st General
4 Assembly. If a superseding ordinance is not so adopted and
5 filed, then the tax imposed in accordance with the provisions
6 of this Section in effect before the effective date of this
7 amendatory Act of the 101st General Assembly shall be
8 discontinued on January 1, 2021.

9 This Section shall be known and may be cited as the
10 Municipal Motor Fuel Tax Law.

11 (Source: P.A. 101-32, eff. 6-28-19; 101-604, eff. 12-13-19.)".