

SB3458



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3458

Introduced 1/18/2022, by Sen. Doris Turner

SYNOPSIS AS INTRODUCED:

65 ILCS 5/8-11-23

Amends the Municipal Cannabis Retailers' Occupation Tax Law in the Illinois Municipal Code. Provides that an elected official of a municipality that receives revenues pursuant to the Law may request from the Department of Revenue the total amount of deposits received by the municipality each calendar year, notwithstanding any other provision of law. Effective immediately.

LRB102 23596 AWJ 32778 b

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Municipal Code is amended by
5 changing Section 8-11-23 as follows:

6 (65 ILCS 5/8-11-23)

7 Sec. 8-11-23. Municipal Cannabis Retailers' Occupation Tax
8 Law.

9 (a) This Section may be referred to as the Municipal
10 Cannabis Retailers' Occupation Tax Law. The corporate
11 authorities of any municipality may, by ordinance, impose a
12 tax upon all persons engaged in the business of selling
13 cannabis, other than cannabis purchased under the
14 Compassionate Use of Medical Cannabis Program Act, at retail
15 in the municipality on the gross receipts from these sales
16 made in the course of that business. If imposed, the tax may
17 not exceed 3% of the gross receipts from these sales and shall
18 only be imposed in 1/4% increments. The tax imposed under this
19 Section and all civil penalties that may be assessed as an
20 incident of the tax shall be collected and enforced by the
21 Department of Revenue. The Department of Revenue shall have
22 full power to administer and enforce this Section; to collect
23 all taxes and penalties due hereunder; to dispose of taxes and

1 penalties so collected in the manner hereinafter provided; and
2 to determine all rights to credit memoranda arising on account
3 of the erroneous payment of tax or penalty under this Section.
4 In the administration of and compliance with this Section, the
5 Department and persons who are subject to this Section shall
6 have the same rights, remedies, privileges, immunities, powers
7 and duties, and be subject to the same conditions,
8 restrictions, limitations, penalties and definitions of terms,
9 and employ the same modes of procedure, as are prescribed in
10 Sections 1, 1a, 1d, 1e, 1f, 1i, 1j, 1k, 1m, 1n, 2 through 2-65
11 (in respect to all provisions therein other than the State
12 rate of tax), 2a, 2b, 2c, 2i, 3 (except as to the disposition
13 of taxes and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e,
14 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 6d, 7, 8, 9, 10, 11,
15 11a, 12, and 13 of the Retailers' Occupation Tax Act and
16 Section 3-7 of the Uniform Penalty and Interest Act, as fully
17 as if those provisions were set forth herein.

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

24 (c) Whenever the Department of Revenue determines that a
25 refund should be made under this Section to a claimant instead
26 of issuing a credit memorandum, the Department of Revenue

1 shall notify the State Comptroller, who shall cause the order
2 to be drawn for the amount specified and to the person named in
3 the notification from the Department of Revenue.

4 (d) The Department of Revenue shall immediately pay over
5 to the State Treasurer, ex officio, as trustee, all taxes and
6 penalties collected hereunder for deposit into the Local
7 Cannabis Retailers' Occupation Tax Trust Fund.

8 (e) On or before the 25th day of each calendar month, the
9 Department of Revenue shall prepare and certify to the
10 Comptroller the amount of money to be disbursed from the Local
11 Cannabis Retailers' Occupation Tax Trust Fund to
12 municipalities from which retailers have paid taxes or
13 penalties under this Section during the second preceding
14 calendar month. The amount to be paid to each municipality
15 shall be the amount (not including credit memoranda) collected
16 under this Section from sales made in the municipality during
17 the second preceding calendar month, plus an amount the
18 Department of Revenue determines is necessary to offset any
19 amounts that were erroneously paid to a different taxing body,
20 and not including an amount equal to the amount of refunds made
21 during the second preceding calendar month by the Department
22 on behalf of such municipality, and not including any amount
23 that the Department determines is necessary to offset any
24 amounts that were payable to a different taxing body but were
25 erroneously paid to the municipality, less 1.5% of the
26 remainder, which the Department shall transfer into the Tax

1 Compliance and Administration Fund. The Department, at the
2 time of each monthly disbursement to the municipalities, shall
3 prepare and certify to the State Comptroller the amount to be
4 transferred into the Tax Compliance and Administration Fund
5 under this Section. Within 10 days after receipt by the
6 Comptroller of the disbursement certification to the
7 municipalities and the Tax Compliance and Administration Fund
8 provided for in this Section to be given to the Comptroller by
9 the Department, the Comptroller shall cause the orders to be
10 drawn for the respective amounts in accordance with the
11 directions contained in the certification.

12 (f) An ordinance or resolution imposing or discontinuing a
13 tax under this Section or effecting a change in the rate
14 thereof that is adopted on or after June 25, 2019 (the
15 effective date of Public Act 101-27) and for which a certified
16 copy is filed with the Department on or before April 1, 2020
17 shall be administered and enforced by the Department beginning
18 on July 1, 2020. For ordinances filed with the Department
19 after April 1, 2020, an ordinance or resolution imposing or
20 discontinuing a tax under this Section or effecting a change
21 in the rate thereof shall either (i) be adopted and a certified
22 copy thereof filed with the Department on or before the first
23 day of April, whereupon the Department shall proceed to
24 administer and enforce this Section as of the first day of July
25 next following the adoption and filing; or (ii) be adopted and
26 a certified copy thereof filed with the Department on or

1 before the first day of October, whereupon the Department
2 shall proceed to administer and enforce this Section as of the
3 first day of January next following the adoption and filing.

4 (g) An elected official of a municipality that receives
5 revenues pursuant to this Law may request from the Department
6 of Revenue the total amount of deposits received by the
7 municipality each calendar year, notwithstanding any other
8 provision of law.

9 (Source: P.A. 101-27, eff. 6-25-19; 101-593, eff. 12-4-19.)

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