



## 103RD GENERAL ASSEMBLY

### State of Illinois

### 2023 and 2024

#### HB2579

Introduced 2/15/2023, by Rep. Joe C. Sosnowski

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2505/2505-380  
35 ILCS 120/2a

was 20 ILCS 2505/39b47  
from Ch. 120, par. 441a

Amends the Department of Revenue Law of the Civil Administrative Code of Illinois and the Retailers' Occupation Tax Act. Provides that the Department of Revenue may deny a certificate of registration to an applicant or refuse to issue, reissue, or renew a certificate of registration, permit, or license authorized to be issued by the Department of Revenue if certain owners, partners, officers, managers, or members of the applicant fail to file a return, on or before the due date prescribed for filing that return, that the person is required to file under any tax or fee Act administered by the Department of Revenue.

LRB103 00132 HLH 45136 b

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 Department of Revenue Law of the Civil  
5 Administrative Code of Illinois is amended by changing Section  
6 2505-380 as follows:

7 (20 ILCS 2505/2505-380) (was 20 ILCS 2505/39b47)

8 Sec. 2505-380. Revocation of or refusal to issue or  
9 reissue a certificate of registration, permit, or license.

10 (a) The Department has the power, after notice and an  
11 opportunity for a hearing, to revoke a certificate of  
12 registration, permit, or license issued by the Department if  
13 the holder of the certificate of registration, permit, or  
14 license fails to file a return, or to pay the tax, fee,  
15 penalty, or interest shown in a filed return, or to pay any  
16 final assessment of tax, fee, penalty, or interest, as  
17 required by the tax or fee Act under which the certificate of  
18 registration, permit, or license is required or any other tax  
19 or fee Act administered by the Department.

20 (b) The Department may refuse to issue, reissue, or renew  
21 a certificate of registration, permit, or license authorized  
22 to be issued by the Department if a person who is named as the  
23 owner, a partner, a corporate officer, or, in the case of a

1 limited liability company, a manager or member, of the  
2 applicant on the application for the certificate of  
3 registration, permit or license, is or has been named as the  
4 owner, a partner, a corporate officer, or in the case of a  
5 limited liability company, a manager or member, on the  
6 application for the certificate of registration, permit, or  
7 license of a person that (i) is in default for moneys due under  
8 the tax or fee Act upon which the certificate of registration,  
9 permit, or license is required or any other tax or fee Act  
10 administered by the Department or (ii) fails to file any  
11 return, on or before the due date prescribed for filing that  
12 return (including any extensions of time granted by the  
13 Department), that the person is required to file under the tax  
14 or fee Act upon which the certificate of registration, permit,  
15 or license is required or any other tax or fee Act administered  
16 by the Department. For purposes of this Section only, in  
17 determining whether a person is in default for moneys due, the  
18 Department shall include only amounts established as a final  
19 liability within the 23 years prior to the date of the  
20 Department's notice of refusal to issue or reissue the  
21 certificate of registration, permit, or license. For purposes  
22 of this Section, "person" means any natural individual, firm,  
23 partnership, association, joint stock company, joint  
24 adventure, public or private corporation, limited liability  
25 company, or a receiver, executor, trustee, guardian or other  
26 representative appointed by order of any court.

1           (c) When revoking or refusing to issue or reissue a  
2 certificate of registration, permit, or license issued by the  
3 Department, the procedure for notice and hearing used shall be  
4 the procedure provided under the Act pursuant to which the  
5 certificate of registration, permit, or license was issued.

6           (Source: P.A. 102-40, eff. 6-25-21.)

7           Section 10. The Retailers' Occupation Tax Act is amended  
8 by changing Section 2a as follows:

9           (35 ILCS 120/2a) (from Ch. 120, par. 441a)

10          Sec. 2a. It is unlawful for any person to engage in the  
11 business of selling tangible personal property at retail in  
12 this State without a certificate of registration from the  
13 Department. Application for a certificate of registration  
14 shall be made to the Department upon forms furnished by it.  
15 Each such application shall be signed and verified and shall  
16 state: (1) the name and social security number of the  
17 applicant; (2) the address of his principal place of business;  
18 (3) the address of the principal place of business from which  
19 he engages in the business of selling tangible personal  
20 property at retail in this State and the addresses of all other  
21 places of business, if any (enumerating such addresses, if  
22 any, in a separate list attached to and made a part of the  
23 application), from which he engages in the business of selling  
24 tangible personal property at retail in this State; (4) the

1 name and address of the person or persons who will be  
2 responsible for filing returns and payment of taxes due under  
3 this Act; (5) in the case of a publicly traded corporation, the  
4 name and title of the Chief Financial Officer, Chief Operating  
5 Officer, and any other officer or employee with responsibility  
6 for preparing tax returns under this Act, and, in the case of  
7 all other corporations, the name, title, and social security  
8 number of each corporate officer; (6) in the case of a limited  
9 liability company, the name, social security number, and FEIN  
10 number of each manager and member; and (7) such other  
11 information as the Department may reasonably require. The  
12 application shall contain an acceptance of responsibility  
13 signed by the person or persons who will be responsible for  
14 filing returns and payment of the taxes due under this Act. If  
15 the applicant will sell tangible personal property at retail  
16 through vending machines, his application to register shall  
17 indicate the number of vending machines to be so operated. If  
18 requested by the Department at any time, that person shall  
19 verify the total number of vending machines he or she uses in  
20 his or her business of selling tangible personal property at  
21 retail.

22 The Department shall provide by rule for an expedited  
23 business registration process for remote retailers required to  
24 register and file under subsection (b) of Section 2 who use a  
25 certified service provider to file their returns under this  
26 Act. Such expedited registration process shall allow the

1 Department to register a taxpayer based upon the same  
2 registration information required by the Streamlined Sales Tax  
3 Governing Board for states participating in the Streamlined  
4 Sales Tax Project.

5 The Department may deny a certificate of registration to  
6 any applicant if a person who is named as the owner, a partner,  
7 a manager or member of a limited liability company, or a  
8 corporate officer of the applicant on the application for the  
9 certificate of registration is or has been named as the owner,  
10 a partner, a manager or member of a limited liability company,  
11 or a corporate officer on the application for the certificate  
12 of registration of another retailer that (i) is in default for  
13 moneys due under this Act or any other tax or fee Act  
14 administered by the Department or (ii) fails to file any  
15 return, on or before the due date prescribed for filing that  
16 return (including any extensions of time granted by the  
17 Department), that the retailer is required to file under this  
18 Act or any other tax or fee Act administered by the Department.

19 For purposes of this paragraph only, in determining whether a  
20 person is in default for moneys due, the Department shall  
21 include only amounts established as a final liability within  
22 the 23 years prior to the date of the Department's notice of  
23 denial of a certificate of registration.

24 The Department may require an applicant for a certificate  
25 of registration hereunder to, at the time of filing such  
26 application, furnish a bond from a surety company authorized

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

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

24         No certificate of registration under this Act shall be  
25    issued by the Department until the applicant provides the  
26    Department with satisfactory security, if required, as herein



1 provided for.

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

14       No certificate of registration issued prior to July 1,  
15 2017 to a taxpayer who files returns required by this Act on a  
16 monthly basis or renewed prior to July 1, 2017 by a taxpayer  
17 who files returns required by this Act on a monthly basis shall  
18 be valid after the expiration of 5 years from the date of its  
19 issuance or last renewal. No certificate of registration  
20 issued on or after July 1, 2017 to a taxpayer who files returns  
21 required by this Act on a monthly basis or renewed on or after  
22 July 1, 2017 by a taxpayer who files returns required by this  
23 Act on a monthly basis shall be valid after the expiration of  
24 one year from the date of its issuance or last renewal. The  
25 expiration date of a sub-certificate of registration shall be  
26 that of the certificate of registration to which the

1 sub-certificate relates. Prior to July 1, 2017, a certificate  
2 of registration shall automatically be renewed, subject to  
3 revocation as provided by this Act, for an additional 5 years  
4 from the date of its expiration unless otherwise notified by  
5 the Department as provided by this paragraph. On and after  
6 July 1, 2017, a certificate of registration shall  
7 automatically be renewed, subject to revocation as provided by  
8 this Act, for an additional one year from the date of its  
9 expiration unless otherwise notified by the Department as  
10 provided by this paragraph.

11 Where a taxpayer to whom a certificate of registration is  
12 issued under this Act is in default to the State of Illinois  
13 for delinquent returns or for moneys due under this Act or any  
14 other State tax law or municipal or county ordinance  
15 administered or enforced by the Department, the Department  
16 shall, not less than 60 days before the expiration date of such  
17 certificate of registration, give notice to the taxpayer to  
18 whom the certificate was issued of the account period of the  
19 delinquent returns, the amount of tax, penalty and interest  
20 due and owing from the taxpayer, and that the certificate of  
21 registration shall not be automatically renewed upon its  
22 expiration date unless the taxpayer, on or before the date of  
23 expiration, has filed and paid the delinquent returns or paid  
24 the defaulted amount in full. A taxpayer to whom such a notice  
25 is issued shall be deemed an applicant for renewal. The  
26 Department shall promulgate regulations establishing

1 procedures for taxpayers who file returns on a monthly basis  
2 but desire and qualify to change to a quarterly or yearly  
3 filing basis and will no longer be subject to renewal under  
4 this Section, and for taxpayers who file returns on a yearly or  
5 quarterly basis but who desire or are required to change to a  
6 monthly filing basis and will be subject to renewal under this  
7 Section.

8 The Department may in its discretion approve renewal by an  
9 applicant who is in default if, at the time of application for  
10 renewal, the applicant files all of the delinquent returns or  
11 pays to the Department such percentage of the defaulted amount  
12 as may be determined by the Department and agrees in writing to  
13 waive all limitations upon the Department for collection of  
14 the remaining defaulted amount to the Department over a period  
15 not to exceed 5 years from the date of renewal of the  
16 certificate; however, no renewal application submitted by an  
17 applicant who is in default shall be approved if the  
18 immediately preceding renewal by the applicant was conditioned  
19 upon the installment payment agreement described in this  
20 Section. The payment agreement herein provided for shall be in  
21 addition to and not in lieu of the security that may be  
22 required by this Section of a taxpayer who is no longer  
23 considered a prior continuous compliance taxpayer. The  
24 execution of the payment agreement as provided in this Act  
25 shall not toll the accrual of interest at the statutory rate.

26 The Department may suspend a certificate of registration

1 if the Department finds that the person to whom the  
2 certificate of registration has been issued knowingly sold  
3 contraband cigarettes.

4 A certificate of registration issued under this Act more  
5 than 5 years before January 1, 1990 (the effective date of  
6 Public Act 86-383) shall expire and be subject to the renewal  
7 provisions of this Section on the next anniversary of the date  
8 of issuance of such certificate which occurs more than 6  
9 months after January 1, 1990 (the effective date of Public Act  
10 86-383). A certificate of registration issued less than 5  
11 years before January 1, 1990 (the effective date of Public Act  
12 86-383) shall expire and be subject to the renewal provisions  
13 of this Section on the 5th anniversary of the issuance of the  
14 certificate.

15 If the person so registered states that he operates other  
16 places of business from which he engages in the business of  
17 selling tangible personal property at retail in this State,  
18 the Department shall furnish him with a sub-certificate of  
19 registration for each such place of business, and the  
20 applicant shall display the appropriate sub-certificate of  
21 registration at each such place of business. All  
22 sub-certificates of registration shall bear the same  
23 registration number as that appearing upon the certificate of  
24 registration to which such sub-certificates relate.

25 If the applicant will sell tangible personal property at  
26 retail through vending machines, the Department shall furnish

1 him with a sub-certificate of registration for each such  
2 vending machine, and the applicant shall display the  
3 appropriate sub-certificate of registration on each such  
4 vending machine by attaching the sub-certificate of  
5 registration to a conspicuous part of such vending machine. If  
6 a person who is registered to sell tangible personal property  
7 at retail through vending machines adds an additional vending  
8 machine or additional vending machines to the number of  
9 vending machines he or she uses in his or her business of  
10 selling tangible personal property at retail, he or she shall  
11 notify the Department, on a form prescribed by the Department,  
12 to request an additional sub-certificate or additional  
13 sub-certificates of registration, as applicable. With each  
14 such request, the applicant shall report the number of  
15 sub-certificates of registration he or she is requesting as  
16 well as the total number of vending machines from which he or  
17 she makes retail sales.

18 Where the same person engages in 2 or more businesses of  
19 selling tangible personal property at retail in this State,  
20 which businesses are substantially different in character or  
21 engaged in under different trade names or engaged in under  
22 other substantially dissimilar circumstances (so that it is  
23 more practicable, from an accounting, auditing or bookkeeping  
24 standpoint, for such businesses to be separately registered),  
25 the Department may require or permit such person (subject to  
26 the same requirements concerning the furnishing of security as

1 those that are provided for hereinbefore in this Section as to  
2 each application for a certificate of registration) to apply  
3 for and obtain a separate certificate of registration for each  
4 such business or for any of such businesses, under a single  
5 certificate of registration supplemented by related  
6 sub-certificates of registration.

7 Any person who is registered under the Retailers'  
8 Occupation Tax Act as of March 8, 1963, and who, during the  
9 3-year period immediately prior to March 8, 1963, or during a  
10 continuous 3-year period part of which passed immediately  
11 before and the remainder of which passes immediately after  
12 March 8, 1963, has been so registered continuously and who is  
13 determined by the Department not to have been either  
14 delinquent or deficient in the payment of tax liability during  
15 that period under this Act or under any other State tax law or  
16 municipal or county tax ordinance or resolution under which  
17 the certificate of registration that is issued to the  
18 registrant under this Act will permit the registrant to engage  
19 in business without registering separately under such other  
20 law, ordinance or resolution, shall be considered to be a  
21 Prior Continuous Compliance taxpayer. Also any taxpayer who  
22 has, as verified by the Department, faithfully and  
23 continuously complied with the condition of his bond or other  
24 security under the provisions of this Act for a period of 3  
25 consecutive years shall be considered to be a Prior Continuous  
26 Compliance taxpayer.

1           Every Prior Continuous Compliance taxpayer shall be exempt  
2 from all requirements under this Act concerning the furnishing  
3 of a bond or other security as a condition precedent to his  
4 being authorized to engage in the business of selling tangible  
5 personal property at retail in this State. This exemption  
6 shall continue for each such taxpayer until such time as he may  
7 be determined by the Department to be delinquent in the filing  
8 of any returns, or is determined by the Department (either  
9 through the Department's issuance of a final assessment which  
10 has become final under the Act, or by the taxpayer's filing of  
11 a return which admits tax that is not paid to be due) to be  
12 delinquent or deficient in the paying of any tax under this Act  
13 or under any other State tax law or municipal or county tax  
14 ordinance or resolution under which the certificate of  
15 registration that is issued to the registrant under this Act  
16 will permit the registrant to engage in business without  
17 registering separately under such other law, ordinance or  
18 resolution, at which time that taxpayer shall become subject  
19 to all the financial responsibility requirements of this Act  
20 and, as a condition of being allowed to continue to engage in  
21 the business of selling tangible personal property at retail,  
22 may be required to post bond or other acceptable security with  
23 the Department covering liability which such taxpayer may  
24 thereafter incur. Any taxpayer who fails to pay an admitted or  
25 established liability under this Act may also be required to  
26 post bond or other acceptable security with this Department

1     guaranteeing the payment of such admitted or established  
2     liability.

3             No certificate of registration shall be issued to any  
4     person who is in default to the State of Illinois for moneys  
5     due under this Act or under any other State tax law or  
6     municipal or county tax ordinance or resolution under which  
7     the certificate of registration that is issued to the  
8     applicant under this Act will permit the applicant to engage  
9     in business without registering separately under such other  
10    law, ordinance or resolution.

11            Any person aggrieved by any decision of the Department  
12    under this Section may, within 20 days after notice of such  
13    decision, protest and request a hearing, whereupon the  
14    Department shall give notice to such person of the time and  
15    place fixed for such hearing and shall hold a hearing in  
16    conformity with the provisions of this Act and then issue its  
17    final administrative decision in the matter to such person. In  
18    the absence of such a protest within 20 days, the Department's  
19    decision shall become final without any further determination  
20    being made or notice given.

21            With respect to security other than bonds (upon which the  
22    Department may sue in the event of a forfeiture), if the  
23    taxpayer fails to pay, when due, any amount whose payment such  
24    security guarantees, the Department shall, after such  
25    liability is admitted by the taxpayer or established by the  
26    Department through the issuance of a final assessment that has



1 become final under the law, convert the security which that  
2 taxpayer has furnished into money for the State, after first  
3 giving the taxpayer at least 10 days' written notice, by  
4 registered or certified mail, to pay the liability or forfeit  
5 such security to the Department. If the security consists of  
6 stocks or bonds or other securities which are listed on a  
7 public exchange, the Department shall sell such securities  
8 through such public exchange. If the security consists of an  
9 irrevocable bank letter of credit, the Department shall  
10 convert the security in the manner provided for in the Uniform  
11 Commercial Code. If the security consists of a bank  
12 certificate of deposit, the Department shall convert the  
13 security into money by demanding and collecting the amount of  
14 such bank certificate of deposit from the bank which issued  
15 such certificate. If the security consists of a type of stocks  
16 or other securities which are not listed on a public exchange,  
17 the Department shall sell such security to the highest and  
18 best bidder after giving at least 10 days' notice of the date,  
19 time and place of the intended sale by publication in the  
20 "State Official Newspaper". If the Department realizes more  
21 than the amount of such liability from the security, plus the  
22 expenses incurred by the Department in converting the security  
23 into money, the Department shall pay such excess to the  
24 taxpayer who furnished such security, and the balance shall be  
25 paid into the State Treasury.

26 The Department shall discharge any surety and shall

1 release and return any security deposited, assigned, pledged  
2 or otherwise provided to it by a taxpayer under this Section  
3 within 30 days after:

4 (1) such taxpayer becomes a Prior Continuous  
5 Compliance taxpayer; or

6 (2) such taxpayer has ceased to collect receipts on  
7 which he is required to remit tax to the Department, has  
8 filed a final tax return, and has paid to the Department an  
9 amount sufficient to discharge his remaining tax  
10 liability, as determined by the Department, under this Act  
11 and under every other State tax law or municipal or county  
12 tax ordinance or resolution under which the certificate of  
13 registration issued under this Act permits the registrant  
14 to engage in business without registering separately under  
15 such other law, ordinance or resolution. The Department  
16 shall make a final determination of the taxpayer's  
17 outstanding tax liability as expeditiously as possible  
18 after his final tax return has been filed; if the  
19 Department cannot make such final determination within 45  
20 days after receiving the final tax return, within such  
21 period it shall so notify the taxpayer, stating its  
22 reasons therefor.

23 (Source: P.A. 101-31, eff. 6-28-19; 102-40, eff. 6-25-21.)