

1 AN ACT concerning certain taxes.

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

4 Section 5. The Counties Code is amended by changing  
5 Section 5-1006.5 as follows:

6 (55 ILCS 5/5-1006.5)

7 Sec. 5-1006.5. Special County Retailers' Occupation Tax  
8 For Public Safety.

9 (a) The county board of any county may impose a tax upon  
10 all persons engaged in the business of selling tangible  
11 personal property, other than personal property titled or  
12 registered with an agency of this State's government, at  
13 retail in the county on the gross receipts from the sales  
14 made in the course of business to provide revenue to be used  
15 exclusively for public safety purposes in that county, if a  
16 proposition for the tax has been submitted to the electors of  
17 that county and approved by a majority of those voting on the  
18 question. If imposed, this tax shall be imposed only in .25%  
19 ~~one-quarter--percent~~ increments. By resolution, the county  
20 board may order the proposition to be submitted at any  
21 election. The county clerk shall certify the question to the  
22 proper election authority, who shall submit the proposition  
23 at an election in accordance with the general election law.

24 The proposition shall be in substantially the following  
25 form:

26 "Shall (name of county) be authorized to impose a  
27 public safety tax at the rate of .... upon all persons  
28 engaged in the business of selling tangible personal  
29 property at retail in the county on gross receipts from  
30 the sales made in the course of their business to be used  
31 for crime prevention, detention, and other public safety

1 purposes?"

2 Votes shall be recorded as Yes or No. If a majority of the  
3 electors voting on the proposition vote in favor of it, the  
4 county may impose the tax.

5 This additional tax may not be imposed on the sales of  
6 food for human consumption that is to be consumed off the  
7 premises where it is sold (other than alcoholic beverages,  
8 soft drinks, and food which has been prepared for immediate  
9 consumption) and prescription and non-prescription medicines,  
10 drugs, medical appliances and insulin, urine testing  
11 materials, syringes, and needles used by diabetics. The tax  
12 imposed by a county under this Section and all civil  
13 penalties that may be assessed as an incident of the tax  
14 shall be collected and enforced by the Illinois Department of  
15 Revenue. The certificate of registration that is issued by  
16 the Department to a retailer under the Retailers' Occupation  
17 Tax Act shall permit the retailer to engage in a business  
18 that is taxable without registering separately with the  
19 Department under an ordinance or resolution under this  
20 Section. The Department has full power to administer and  
21 enforce this Section, to collect all taxes and penalties due  
22 under this Section, to dispose of taxes and penalties so  
23 collected in the manner provided in this Section, and to  
24 determine all rights to credit memoranda arising on account  
25 of the erroneous payment of a tax or penalty under this  
26 Section. In the administration of and compliance with this  
27 Section, the Department and persons who are subject to this  
28 Section shall (i) have the same rights, remedies, privileges,  
29 immunities, powers, and duties, (ii) be subject to the same  
30 conditions, restrictions, limitations, penalties, and  
31 definitions of terms, and (iii) employ the same modes of  
32 procedure as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e,  
33 1f, 1i, 1j, 1k, 1m, 1n, 2, 2-5, 2-5.5, 2-10 (in respect to  
34 all provisions contained in those Sections other than the

1 State rate of tax), 2-15 through 2-70, 2a, 2b, 2c, 3 (except  
2 provisions relating to transaction returns and quarter  
3 monthly payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,  
4 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13  
5 of the Retailers' Occupation Tax Act and Section 3-7 of the  
6 Uniform Penalty and Interest Act as if those provisions were  
7 set forth in this Section.

8 Persons subject to any tax imposed under the authority  
9 granted in this Section may reimburse themselves for their  
10 sellers' tax liability by separately stating the tax as an  
11 additional charge, which charge may be stated in combination,  
12 in a single amount, with State tax which sellers are required  
13 to collect under the Use Tax Act, pursuant to such bracketed  
14 schedules as the Department may prescribe.

15 Whenever the Department determines that a refund should  
16 be made under this Section to a claimant instead of issuing a  
17 credit memorandum, the Department shall notify the State  
18 Comptroller, who shall cause the order to be drawn for the  
19 amount specified and to the person named in the notification  
20 from the Department. The refund shall be paid by the State  
21 Treasurer out of the County Public Safety Retailers'  
22 Occupation Tax Fund.

23 (b) If a tax has been imposed under subsection (a), a  
24 service occupation tax shall also be imposed at the same rate  
25 upon all persons engaged, in the county, in the business of  
26 making sales of service, who, as an incident to making those  
27 sales of service, transfer tangible personal property within  
28 the county as an incident to a sale of service. This tax may  
29 not be imposed on sales of food for human consumption that is  
30 to be consumed off the premises where it is sold (other than  
31 alcoholic beverages, soft drinks, and food prepared for  
32 immediate consumption) and prescription and non-prescription  
33 medicines, drugs, medical appliances and insulin, urine  
34 testing materials, syringes, and needles used by diabetics.

1 The tax imposed under this subsection and all civil penalties  
2 that may be assessed as an incident thereof shall be  
3 collected and enforced by the Department of Revenue. The  
4 Department has full power to administer and enforce this  
5 subsection; to collect all taxes and penalties due hereunder;  
6 to dispose of taxes and penalties so collected in the manner  
7 hereinafter provided; and to determine all rights to credit  
8 memoranda arising on account of the erroneous payment of tax  
9 or penalty hereunder. In the administration of, and  
10 compliance with this subsection, the Department and persons  
11 who are subject to this paragraph shall (i) have the same  
12 rights, remedies, privileges, immunities, powers, and duties,  
13 (ii) be subject to the same conditions, restrictions,  
14 limitations, penalties, exclusions, exemptions, and  
15 definitions of terms, and (iii) employ the same modes of  
16 procedure as are prescribed in Sections 2 (except that the  
17 reference to State in the definition of supplier maintaining  
18 a place of business in this State shall mean the county), 2a,  
19 2b, 2c, 3 through 3-50 (in respect to all provisions therein  
20 other than the State rate of tax), 4 (except that the  
21 reference to the State shall be to the county), 5, 7, 8  
22 (except that the jurisdiction to which the tax shall be a  
23 debt to the extent indicated in that Section 8 shall be the  
24 county), 9 (except as to the disposition of taxes and  
25 penalties collected), 10, 11, 12 (except the reference  
26 therein to Section 2b of the Retailers' Occupation Tax Act),  
27 13 (except that any reference to the State shall mean the  
28 county), Section 15, 16, 17, 18, 19 and 20 of the Service  
29 Occupation Tax Act and Section 3-7 of the Uniform Penalty and  
30 Interest Act, as fully as if those provisions were set forth  
31 herein.

32 Persons subject to any tax imposed under the authority  
33 granted in this subsection may reimburse themselves for their  
34 serviceman's tax liability by separately stating the tax as

1 an additional charge, which charge may be stated in  
2 combination, in a single amount, with State tax that  
3 servicemen are authorized to collect under the Service Use  
4 Tax Act, in accordance with such bracket schedules as the  
5 Department may prescribe.

6 Whenever the Department determines that a refund should  
7 be made under this subsection to a claimant instead of  
8 issuing a credit memorandum, the Department shall notify the  
9 State Comptroller, who shall cause the warrant to be drawn  
10 for the amount specified, and to the person named, in the  
11 notification from the Department. The refund shall be paid  
12 by the State Treasurer out of the County Public Safety  
13 Retailers' Occupation Fund.

14 Nothing in this subsection shall be construed to  
15 authorize the county to impose a tax upon the privilege of  
16 engaging in any business which under the Constitution of the  
17 United States may not be made the subject of taxation by the  
18 State.

19 (c) The Department shall immediately pay over to the  
20 State Treasurer, ex officio, as trustee, all taxes and  
21 penalties collected under this Section to be deposited into  
22 the County Public Safety Retailers' Occupation Tax Fund,  
23 which shall be an unappropriated trust fund held outside of  
24 the State treasury. On or before the 25th day of each  
25 calendar month, the Department shall prepare and certify to  
26 the Comptroller the disbursement of stated sums of money to  
27 the counties from which retailers have paid taxes or  
28 penalties to the Department during the second preceding  
29 calendar month. The amount to be paid to each county shall  
30 be the amount (not including credit memoranda) collected  
31 under this Section during the second preceding calendar month  
32 by the Department plus an amount the Department determines is  
33 necessary to offset any amounts that were erroneously paid to  
34 a different taxing body, and not including (i) an amount

1 equal to the amount of refunds made during the second  
2 preceding calendar month by the Department on behalf of the  
3 county and (ii) any amount that the Department determines is  
4 necessary to offset any amounts that were payable to a  
5 different taxing body but were erroneously paid to the  
6 county. Within 10 days after receipt by the Comptroller of  
7 the disbursement certification to the counties provided for  
8 in this Section to be given to the Comptroller by the  
9 Department, the Comptroller shall cause the orders to be  
10 drawn for the respective amounts in accordance with  
11 directions contained in the certification.

12 In addition to the disbursement required by the preceding  
13 paragraph, an allocation shall be made in March of each year  
14 to each county that received more than \$500,000 in  
15 disbursements under the preceding paragraph in the preceding  
16 calendar year. The allocation shall be in an amount equal to  
17 the average monthly distribution made to each such county  
18 under the preceding paragraph during the preceding calendar  
19 year (excluding the 2 months of highest receipts). The  
20 distribution made in March of each year subsequent to the  
21 year in which an allocation was made pursuant to this  
22 paragraph and the preceding paragraph shall be reduced by the  
23 amount allocated and disbursed under this paragraph in the  
24 preceding calendar year. The Department shall prepare and  
25 certify to the Comptroller for disbursement the allocations  
26 made in accordance with this paragraph.

27 (d) For the purpose of determining the local  
28 governmental unit whose tax is applicable, a retail sale by a  
29 producer of coal or another mineral mined in Illinois is a  
30 sale at retail at the place where the coal or other mineral  
31 mined in Illinois is extracted from the earth. This  
32 paragraph does not apply to coal or another mineral when it  
33 is delivered or shipped by the seller to the purchaser at a  
34 point outside Illinois so that the sale is exempt under the

1 United States Constitution as a sale in interstate or foreign  
2 commerce.

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

8 (e-5) If a county imposes a tax under this Section, the  
9 county board may, by ordinance, discontinue or lower the rate  
10 of the tax. If the county board lowers the tax rate or  
11 discontinues the tax, a referendum must be held in accordance  
12 with subsection (a) of this Section in order to increase the  
13 rate of the tax or to reimpose the discontinued tax.

14 (f) Beginning April 1, 1998, the results of any election  
15 authorizing a proposition to impose a tax under this Section  
16 or effecting a change in the rate of tax, or any ordinance  
17 lowering the rate or discontinuing the tax, shall be  
18 certified by the county clerk and filed with the Illinois  
19 Department of Revenue either (i) on or before the first day  
20 of April, whereupon the Department shall proceed to  
21 administer and enforce the tax as of the first day of July  
22 next following the filing; or (ii) on or before the first day  
23 of October, whereupon the Department shall proceed to  
24 administer and enforce the tax as of the first day of January  
25 next following the filing.

26 (g) When certifying the amount of a monthly disbursement  
27 to a county under this Section, the Department shall increase  
28 or decrease the amounts by an amount necessary to offset any  
29 miscalculation of previous disbursements. The offset amount  
30 shall be the amount erroneously disbursed within the previous  
31 6 months from the time a miscalculation is discovered.

32 (h) This Section may be cited as the "Special County  
33 Occupation Tax For Public Safety Law".

34 (i) For purposes of this Section, "public safety"

1 includes but is not limited to fire fighting, police,  
2 medical, ambulance, or other emergency services.

3 (Source: P.A. 89-107, eff. 1-1-96; 89-718, eff. 3-7-97;  
4 90-190, eff. 7-24-97; 90-267, eff. 7-30-97; 90-552, eff.  
5 12-12-97; 90-562, eff. 12-16-97; 90-655, eff. 7-30-98;  
6 90-689, eff. 7-31-98.)