



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB5329

Introduced 01/26/06, by Rep. Eddie Washington

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1008.7 new

Amends the Counties Code. Authorizes counties to impose impose a tax upon all persons engaged in the county in the business of selling cigarettes at retail on the gross receipts from the retail sales of cigarettes made in the course of business within the county. Provides that the tax may be imposed, in half-cent increments, at a rate not exceeding \$0.05 per cigarette. Provides that the Department of Revenue shall collect and enforce the tax and any related penalties. Sets forth procedures for the administration and collection of the tax. Effective immediately.

LRB094 17676 BDD 52974 b

FISCAL NOTE ACT
MAY APPLY

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 Counties Code is amended by adding Section
5 5-1008.7 as follows:

6 (55 ILCS 5/5-1008.7 new)

7 Sec. 5-1008.7. County Cigarette Tax.

8 (a) The county board of any county may, by ordinance or
9 resolution, impose a tax upon all persons engaged in the county
10 in the business of selling cigarettes at retail on the gross
11 receipts from the retail sales of cigarettes made in the course
12 of business within the county. For purposes of this Section,
13 "cigarette" has the meaning set forth under Section 1 of the
14 Cigarette Tax Act.

15 (b) If imposed, the tax on cigarettes may be imposed, in
16 half-cent increments, at a rate not exceeding \$0.05 per
17 cigarette sold at retail within the county.

18 (c) The tax imposed by a county under this Section and all
19 civil penalties that may be assessed as an incident thereof
20 shall be collected and enforced by the Department of Revenue.
21 The certificate of registration that is issued by the
22 Department to a retailer under the Retailers' Occupation Tax
23 Act shall permit the retailer to engage in a business that is
24 taxable under any ordinance or resolution enacted under this
25 Section without registering separately with the Department
26 under the ordinance or resolution imposing the tax or under
27 this Section.

28 The Department has the full power to:

29 (1) administer and enforce this Section;

30 (2) collect all taxes and penalties due under this
31 Section;

32 (3) dispose of taxes and penalties so collected in the

1 manner provided in this Section; and

2 (4) determine all rights to credit memoranda arising on
3 account of the erroneous payment of tax or penalty.

4 In the administration of, and compliance with, this
5 Section, the Department and persons who are subject to this
6 Section have the same rights, remedies, privileges,
7 immunities, powers, and duties, and are subject to the same
8 conditions, restrictions, limitations, penalties, and
9 definitions of terms, and employ the same modes of procedure,
10 as are set forth in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j,
11 1k, 1m, 1n, 2 through 2-65 (in respect to all provisions
12 therein other than the State rate of tax), 4, 5, 5a, 5b, 5c,
13 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10,
14 11, 12 and 13 of the Retailers' Occupation Tax Act and Section
15 3-7 of the Uniform Penalty and Interest Act, as fully as if
16 those provisions were set forth in this Section.

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

24 (e) Whenever the Department determines that a refund should
25 be made under this Section to a claimant instead of issuing a
26 credit memorandum, the Department shall notify the State
27 Comptroller, who shall cause the order to be drawn for the
28 amount specified, and to the person named in the notification
29 from the Department. The refund shall be paid by the State
30 Treasurer from the County Option Cigarette Tax Fund.

31 (f) The Department shall forthwith pay over to the State
32 Treasurer, ex officio, as trustee, all taxes and penalties
33 collected under this Section less the amount expended by the
34 Department for the administration and enforcement of this
35 Section, which may not exceed \$200,000 for fiscal year 2006
36 and, for each year thereafter, may not exceed 2% of the amount

1 deposited in the County Option Cigarette Tax Fund during the
2 preceding fiscal year. The Treasurer must deposit the moneys
3 paid over by the Department into the County Option Cigarette
4 Tax Fund, an unappropriated trust fund held outside the State
5 treasury.

6 On or before the 25th day of each calendar month, the
7 Department must prepare and certify to the Comptroller the
8 disbursement of stated sums of money to named counties, the
9 counties to be those from which retailers have paid taxes or
10 penalties under this Section to the Department during the
11 second preceding calendar month. The amount to be paid to each
12 county is the amount (not including credit memoranda) collected
13 under this Section during the second preceding calendar month
14 by the Department plus an amount the Department determines is
15 necessary to offset any amounts that were erroneously paid to a
16 different taxing body, and not including an amount equal to the
17 amount of refunds made during the second preceding calendar
18 month by the Department on behalf of the county, and not
19 including any amount that the Department determines is
20 necessary to offset any amounts that were payable to a
21 different taxing body but were erroneously paid to the county.

22 When certifying the amount of a monthly disbursement to a
23 county under this subsection, the Department shall increase or
24 decrease amounts by an amount necessary to offset any
25 miscalculation of previous disbursements. The offset amount is
26 the amount erroneously disbursed within the previous 6 months
27 from the time that the miscalculation is discovered.

28 Within 10 days after receipt of the disbursement
29 certification under this subsection, the Comptroller shall
30 cause the orders to be drawn for the respective amounts in
31 accordance with the directions contained in the certification.

32 (g) Nothing in the Section may be construed to authorize a
33 county to impose a tax upon the privilege of engaging in any
34 business that, under the Constitution of the United States, may
35 not be made the subject of taxation by this State.

36 (h) An ordinance or resolution imposing a tax under this

1 Section or effecting a change in the rate thereof is effective
2 on the first day of the second calendar month next following
3 the month in which the ordinance or resolution is adopted and a
4 certified copy thereof is filed with the Department, whereupon
5 the Department of Revenue shall proceed to administer and
6 enforce this Section on behalf of the county as of the
7 effective date of the ordinance or resolution.

8 Upon a change in rate of a tax levied under this Section or
9 upon the discontinuance of the tax, the county board of the
10 county must, not later than 5 days after the effective date of
11 the ordinance or resolution discontinuing the tax or effecting
12 a change in rate, transmit to the Department a certified copy
13 of the ordinance or resolution effecting the change or
14 discontinuance.

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.