

HB1639



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB1639

Introduced 2/18/2009, by Rep. Michael J. Madigan - Barbara Flynn Currie - Paul D. Froehlich

SYNOPSIS AS INTRODUCED:

65 ILCS 5/8-11-1.4

from Ch. 24, par. 8-11-1.4

Amends the Illinois Municipal Code. Makes a technical change in a Section concerning a non-home rule municipal service occupation tax.

LRB096 05209 RLJ 15275 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 8-11-1.4 as follows:

6 (65 ILCS 5/8-11-1.4) (from Ch. 24, par. 8-11-1.4)

7 Sec. 8-11-1.4. Non-Home Rule Municipal Service Occupation
8 Tax Act. The ~~The~~ corporate authorities of a non-home rule
9 municipality may impose a tax upon all persons engaged, in such
10 municipality, in the business of making sales of service for
11 expenditure on public infrastructure or for property tax relief
12 or both as defined in Section 8-11-1.2 if approved by
13 referendum as provided in Section 8-11-1.1, of the selling
14 price of all tangible personal property transferred by such
15 servicemen either in the form of tangible personal property or
16 in the form of real estate as an incident to a sale of service.
17 The tax imposed may not be more than 1% and may be imposed only
18 in 1/4% increments. The tax may not be imposed on the sale of
19 food for human consumption that is to be consumed off the
20 premises where it is sold (other than alcoholic beverages, soft
21 drinks, and food that has been prepared for immediate
22 consumption) and prescription and nonprescription medicines,
23 drugs, medical appliances, and insulin, urine testing

1 materials, syringes, and needles used by diabetics. The tax
2 imposed by a municipality pursuant to this Section and all
3 civil penalties that may be assessed as an incident thereof
4 shall be collected and enforced by the State Department of
5 Revenue. The certificate of registration which is issued by the
6 Department to a retailer under the Retailers' Occupation Tax
7 Act or under the Service Occupation Tax Act shall permit such
8 registrant to engage in a business which is taxable under any
9 ordinance or resolution enacted pursuant to this Section
10 without registering separately with the Department under such
11 ordinance or resolution or under this Section. The Department
12 shall have full power to administer and enforce this Section;
13 to collect all taxes and penalties due hereunder; to dispose of
14 taxes and penalties so collected in the manner hereinafter
15 provided, and to determine all rights to credit memoranda
16 arising on account of the erroneous payment of tax or penalty
17 hereunder. In the administration of, and compliance with, this
18 Section the Department and persons who are subject to this
19 Section shall have the same rights, remedies, privileges,
20 immunities, powers and duties, and be subject to the same
21 conditions, restrictions, limitations, penalties and
22 definitions of terms, and employ the same modes of procedure,
23 as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in
24 respect to all provisions therein other than the State rate of
25 tax), 4 (except that the reference to the State shall be to the
26 taxing municipality), 5, 7, 8 (except that the jurisdiction to

1 which the tax shall be a debt to the extent indicated in that
2 Section 8 shall be the taxing municipality), 9 (except as to
3 the disposition of taxes and penalties collected, and except
4 that the returned merchandise credit for this municipal tax may
5 not be taken against any State tax), 10, 11, 12 (except the
6 reference therein to Section 2b of the Retailers' Occupation
7 Tax Act), 13 (except that any reference to the State shall mean
8 the taxing municipality), the first paragraph of Section 15,
9 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and
10 Section 3-7 of the Uniform Penalty and Interest Act, as fully
11 as if those provisions were set forth herein.

12 No municipality may impose a tax under this Section unless
13 the municipality also imposes a tax at the same rate under
14 Section 8-11-1.3 of this Code.

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

23 Whenever the Department determines that a refund should be
24 made under this Section to a claimant instead of issuing credit
25 memorandum, the Department shall notify the State Comptroller,
26 who shall cause the order to be drawn for the amount specified,

1 and to the person named, in such notification from the
2 Department. Such refund shall be paid by the State Treasurer
3 out of the municipal retailers' occupation tax fund.

4 The Department shall forthwith pay over to the State
5 Treasurer, ex officio, as trustee, all taxes and penalties
6 collected hereunder. On or before the 25th day of each calendar
7 month, the Department shall prepare and certify to the
8 Comptroller the disbursement of stated sums of money to named
9 municipalities, the municipalities to be those from which
10 suppliers and servicemen have paid taxes or penalties hereunder
11 to the Department during the second preceding calendar month.
12 The amount to be paid to each municipality shall be the amount
13 (not including credit memoranda) collected hereunder during
14 the second preceding calendar month by the Department, and not
15 including an amount equal to the amount of refunds made during
16 the second preceding calendar month by the Department on behalf
17 of such municipality. Within 10 days after receipt, by the
18 Comptroller, of the disbursement certification to the
19 municipalities and the General Revenue Fund, provided for in
20 this Section to be given to the Comptroller by the Department,
21 the Comptroller shall cause the orders to be drawn for the
22 respective amounts in accordance with the directions contained
23 in such certification.

24 The Department of Revenue shall implement this amendatory
25 Act of the 91st General Assembly so as to collect the tax on
26 and after January 1, 2002.

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

5 As used in this Section, "municipal" or "municipality"
6 means or refers to a city, village or incorporated town,
7 including an incorporated town which has superseded a civil
8 township.

9 This Section shall be known and may be cited as the
10 "Non-Home Rule Municipal Service Occupation Tax Act".

11 (Source: P.A. 94-679, eff. 1-1-06.)