



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5479

Introduced 2/15/2012, by Rep. Brandon W. Phelps

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1008.6 new
55 ILCS 5/5-1008.7 new
55 ILCS 5/5-1008.8 new
55 ILCS 5/5-1008.9 new
55 ILCS 5/5-1008.10 new
55 ILCS 5/5-1008.11 new
55 ILCS 5/5-1008.12 new
55 ILCS 5/5-1008.13 new
55 ILCS 5/5-1008.14 new
55 ILCS 5/5-1008.15 new
55 ILCS 5/5-1008.16 new
55 ILCS 5/5-1008.17 new

Amends the Counties Code. Provides that the corporate authorities of a county having a population of less than 35,000 may, by ordinance or resolution, impose a tax upon the patrons of amusements that take place within the county. Provides that proceeds from the tax shall first be directed to costs arising from the amusement. Provides that, in order to hold any mass gathering, any owner of an amusement shall apply for and obtain a license from the county where the amusement is to be held. Sets forth provisions concerning the contents of the application for a license, public hearing requirements, and penalties for violation.

LRB097 20142 HLH 65537 b

FISCAL NOTE ACT
MAY APPLY

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 Counties Code is amended by adding Sections
5 5-1008.6, 5-1008.7, 5-1008.8, 5-1008.9, 5-1008.10, 5-1008.11,
6 5-1008.12, 5-1008.13, 5-1008.14, 5-1008.15, 5-1008.16, and
7 5-1008.17 as follows:

8 (55 ILCS 5/5-1008.6 new)

9 Sec. 5-1008.6. Small county amusement tax.

10 The corporate authorities of a county having a population
11 of less than 35,000 may, by ordinance or resolution, impose a
12 tax upon the patrons of amusements that take place within the
13 county and may require the owner of the amusement to collect
14 the tax and to collect information regarding the number of
15 attendees at an amusement within a reasonable margin. The tax
16 may not exceed 6.5% of the admission fee or other charge paid
17 for the privilege of entering, witnessing, or viewing the
18 amusement. The county may impose an attendance threshold for
19 the application of any tax or may apply the tax uniformly for
20 all amusements within the county. Additionally, not-for-profit
21 charitable organizations or religious, educational, or
22 government entities may be exempt from the tax.

23 For the purposes of this Section, "amusement" means any

1 exhibition, performance, presentation, or show for
2 entertainment or gathering purposes, including, but not
3 limited to, any theatrical, dramatic, musical, or spectacular
4 performance, motorcycle rally, promotional show, concert,
5 motion picture show, flower, poultry or animal show, animal
6 act, circus, rodeo, athletic contest, sport, game, or similar
7 exhibition, such as boxing, wrestling, skating, dancing,
8 swimming, riding on animals or vehicles, baseball, basketball,
9 softball, soccer, football, tennis, golf, hockey, track and
10 field games, bowling, and billiard and pool games. For purposes
11 of this Section, the term "amusement" shall not include
12 raffles, as defined in the Raffles Act, inter-track wagering,
13 as defined in the Illinois Horse Racing Act of 1975, or
14 automatic amusement devices such as jukeboxes, marble
15 machines, pinball machines, video games, movie or video booths
16 or stands, or similar games, operations, or transactions.

17 For the purposes of this Section, "owner" means (i) any
18 person who has an ownership or leasehold interest in a
19 building, structure, vehicle, boat, campground, area, or other
20 place where an amusement is held and who presents, conducts, or
21 operates an amusement in that place, or who allows, by
22 agreement or otherwise, another person to present, conduct, or
23 operate an amusement in that place, and (ii) any person who has
24 a proprietary interest in the amusement that entitles the
25 person to all or a portion of the proceeds, after payment of
26 reasonable expenses, from the operation, conduct, or

1 presentation of the amusement, excluding proceeds from
2 non-amusement services and from sales of tangible personal
3 property.

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

8 (55 ILCS 5/5-1008.7 new)

9 Sec. 5-1008.7. Order levying execution of amusement tax. It
10 shall be the duty of the clerk of the corporate authorities
11 described in Section 5-1008.6 to make out and deliver a copy of
12 the order levying execution of a tax imposed under Section
13 5-1008.6 to the sheriff of the county. The copy, duly
14 certified, shall have the force and effect of an execution
15 against the property exhibited or persons or owners, as defined
16 under Section 5-1008.6, exhibiting the amusement. The sheriff
17 shall be liable on his official bond for any default or neglect
18 in collecting the tax.

19 (55 ILCS 5/5-1008.8 new)

20 Sec. 5-1008.8. Proceeds to go into county treasury general
21 fund. The money collected from the tax imposed by Section
22 5-1008.6 shall be paid into the county treasury and shall go to
23 and form a part of the general fund of the county. The
24 treasurer of the county to whom the money is paid shall give

1 the sheriff who pays it duplicate receipts, one of which shall
2 be deposited with the clerk of the county commission, and shall
3 discharge the sheriff. The funds shall be used for the benefit
4 of the county, but in particular the funds shall first be
5 directed to costs arising from the amusement, including but not
6 limited to extra law enforcement costs, court costs for
7 prosecutions related to the amusement, and public health,
8 safety, and welfare.

9 (55 ILCS 5/5-1008.9 new)

10 Sec. 5-1008.9. Penalty for delinquent payment of amusement
11 tax. Any person, association, owner, company, corporation or
12 co-partnership of persons who fails to pay a tax imposed in
13 accordance with Section 5-1008.6 shall, on conviction thereof,
14 be adjudged guilty of a Class B misdemeanor, and punished by a
15 fine not less than \$100, by imprisonment in the county jail for
16 a term not less than 10 days nor more than 6 months, or by both
17 the fine and the term of imprisonment.

18 (55 ILCS 5/5-1008.10 new)

19 Sec. 5-1008.10. Amusement mass gathering license required.
20 Except as provided in Section 5-1008.11, any person,
21 association, corporation, or co-partnership of persons that is
22 an owner of an amusement and intends to hold a mass gathering
23 shall apply for and obtain a license from the county where the
24 amusement, as defined under Section 5-1008.6, is to be held

1 prior to holding any mass gathering. A "mass gathering" means
2 an amusement that is:

3 (1) held outside the limits of a municipality;

4 (2) that attracts or is expected to attract:

5 (i) more than 1,000 persons; or

6 (ii) more than 500 persons, if 51% or more of those
7 persons may reasonably be expected to be younger than

8 21 years of age and it is planned or may reasonably be
9 expected that alcoholic beverages will be sold,

10 served, or consumed at or around the gathering; and

11 (3) at which the persons will remain:

12 (i) for more than 5 continuous hours; or

13 (ii) for any amount of time during the period
14 beginning at 10 p.m. and ending at 4 a.m.

15 (55 ILCS 5/5-1008.11 new)

16 Sec. 5-1008.11. Amusement license required; exception. No
17 person shall operate, maintain, conduct, advertise, or sell or
18 furnish tickets for a mass gathering in any county in this
19 State unless he first obtains a license from that county to
20 operate, maintain, or conduct the mass gathering in accordance
21 with Section 5-1008.10. This provision shall not apply to home
22 rule counties or counties having populations exceeding 35,000.

23 (55 ILCS 5/5-1008.12 new)

24 Sec. 5-1008.12. Application for license; fee; contents of

1 application.

2 Application for a license to operate, maintain or conduct a
3 mass gathering shall be made in writing to the county clerk at
4 least 60 days prior to the time indicated for the commencement
5 of the planned mass gathering and shall be accompanied by a
6 nonrefundable application fee established by the governing
7 body of the county but not more than \$500. The application, at
8 the discretion of the governing body of the county, shall
9 contain the following information:

10 (1) the name, age, residence, and mailing address of
11 the person making the application. If the application is
12 made by a partnership, the names and addresses of the
13 partners must appear. Where the applicant is a corporation,
14 the application must be signed by the president, vice
15 president, and secretary of the corporation and must
16 contain their addresses, and a certified copy of the
17 articles of incorporation shall be submitted with the
18 application;

19 (2) proof of financial worth of the individuals or
20 corporation. The proof of indemnity against injury or loss
21 to persons or property and the amount and form of the
22 indemnity shall be prescribed by the governing body of the
23 county;

24 (3) a written statement of the kind, character, or type
25 of mass gathering that the applicant proposes to operate,
26 maintain, or conduct;

1 (4) the address or legal description of the place where
2 the proposed mass gathering is to be operated, maintained,
3 or conducted. Additionally, the applicant must submit
4 proof of ownership of the place where the mass gathering is
5 to be operated, maintained, or conducted, or a statement
6 signed by the owner of the premises indicating his consent
7 that the site be used for the proposed mass gathering;

8 (5) the dates and hours during which the mass gathering
9 is to be operated, maintained, or conducted;

10 (6) an estimate of the number of customers, spectators,
11 participants, and other persons expected to attend the
12 amusement or gathering for each day it is operated,
13 maintained, or conducted;

14 (7) the name and address of anyone contributing,
15 investing, or having a financial interest greater than \$500
16 in producing the mass gathering;

17 (8) a detailed written explanation of the applicant's
18 plans to provide security and fire protection, water supply
19 and facilities, food supply and facilities, sanitation
20 facilities, medical facilities and services, vehicle
21 parking space, vehicle access and onsite traffic control,
22 and, if it is proposed or expected that spectators or
23 participants will remain at night or overnight, the
24 arrangements for illuminating the premises and for camping
25 or similar facilities. The applicant's plans shall include
26 what provisions shall be made for numbers of spectators in

1 excess of the estimate, and what provisions shall be made
2 for cleanup of the premises and removal of rubbish after
3 the festival has concluded; and

4 (9) a plot plan showing arrangement of the facilities
5 including those for parking, egress, and ingress.

6 (55 ILCS 5/5-1008.13 new)

7 Sec. 5-1008.13. Public hearing on contents of application.

8 Upon receipt of a complete application and the application fee,
9 the county clerk shall set the application for public hearing
10 at a regular meeting of the governing body of the county, not
11 less than 15 days nor more than 45 days thereafter, and shall
12 give not less than 10 days' written notice thereof to the
13 applicant. The clerk shall promptly give notice of the hearing
14 and copies of the application to the department of public
15 safety, sheriff, the division of health, and the fire marshal,
16 who shall each investigate the application and report in
17 writing to the governing body of the county not later than the
18 hearing, with appropriate recommendations related to their
19 official functions as to granting a license and the conditions
20 for granting a license. In the event that the county does not
21 have one or more of the listed governmental departments, then
22 the governing body of the county shall designate suitable
23 entities, private or public, or county divisions or employees
24 to investigate the application in accordance with this Section.

1 (55 ILCS 5/5-1008.14 new)

2 Sec. 5-1008.14. Issue of license. Based upon the testimony
3 of the witnesses and evidence presented at the hearing,
4 including the report of the officials specified in Section
5 5-1008.13, the governing body of the county shall grant the
6 license, deny the license, or set conditions which must be met,
7 or security given that they will be met, before a license may
8 be granted. If conditions are imposed by the governing body,
9 the applicant shall furnish or cause to be furnished to the
10 county clerk proof that all conditions have been met before the
11 license may be issued by the county clerk.

12 (55 ILCS 5/5-1008.15 new)

13 Sec. 5-1008.15. Grounds for denial of license.
14 After holding the required public hearing, in addition to
15 the requirements and conditions set forth in sections 5-1008.10
16 through 5-1008.14, the governing body of the county may deny
17 issuance of a license if it finds any of the following:

18 (1) that the proposed mass gathering will be conducted
19 in a manner or on a location not meeting the health,
20 zoning, fire, or building and safety standards established
21 by applicable city or county ordinances or State laws;

22 (2) that the applicant has knowingly made a false,
23 misleading, or fraudulent statement of material fact in the
24 application for license, or in any other document required
25 pursuant to Sections 5-1008.10 through 5-1008.14;

1 (3) that the applicant, his employee, agent, or any
2 person connected or associated with the applicant as
3 partner, director, officer, stockholder owning more than
4 10% interest in the corporation, associate, or manager has
5 previously conducted the type of mass gathering being
6 applied for, and that the previous mass gathering resulted
7 in the creation of a public or private nuisance, including
8 a nuisance that endangered public health and safety; or

9 (4) that the applicant, his employee, agent, or any
10 person connected or associated with the applicant as
11 partner, director, officer, stockholder owning more than
12 10% interest in the corporation, associate, or manager has
13 been convicted in a court of competent jurisdiction, by
14 final judgment, of a felony.

15 (55 ILCS 5/5-1008.16 new)

16 Sec. 5-1008.16. Penalty for violation. Any person who
17 violates the provisions of Sections 5-1008.10 through
18 5-1008.15 is guilty of a Class B misdemeanor. Any violation of
19 Sections 5-1008.10 through 5-1008.15 shall be grounds for an
20 injunction against the mass gathering, as applied for by either
21 the State of Illinois or the county.

22 (55 ILCS 5/5-1008.17 new)

23 Sec. 5-1008.17. Reasonable conditions authorized; notice
24 of conditions. At the hearing required by Section 5-1008.13,

1 the governing body of the county or municipality may establish
2 reasonable conditions that are necessary to protect the health,
3 safety, or property of local residents and persons attending
4 the mass gathering that must be met prior to the issuance of
5 any license under Sections 5-1008.10 through 5-1008.15. The
6 governing body may take a matter under submission before
7 determining which conditions shall be imposed. When the
8 governing body takes a matter under submission, written notice
9 of any conditions imposed as prerequisite to the issuance of a
10 license shall be mailed to the applicant within 15 days after
11 the original hearing.