

1 AN ACT concerning vehicles.

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

4 Section 5. The Illinois Vehicle Code is amended by
5 changing Sections 2-124, 3-402.2, and 3-824 as follows:

6 (625 ILCS 5/2-124) (from Ch. 95 1/2, par. 2-124)

7 Sec. 2-124. Audits, interest and penalties.

8 (a) Audits. The Secretary of State or employees and
9 agents designated by him, may audit the books, records, tax
10 returns, reports, and any and all other pertinent records or
11 documents of any person licensed or registered, or required
12 to be licensed or registered, under any provisions of this
13 Act, for the purpose of determining whether such person has
14 not paid any fees or taxes required to be paid to the
15 Secretary of State and due to the State of Illinois. For
16 purposes of this Section, "person" means an individual,
17 corporation, or partnership, or an officer or an employee of
18 any corporation, including a dissolved corporation, or a
19 member or an employee of any partnership, who as an officer,
20 employee, or member under a duty to perform the act in
21 respect to which the violation occurs.

22 (b) Joint Audits. The Secretary of State may enter into
23 reciprocal audit agreements with officers, agents or agencies
24 of another State or States, for joint audits of any person
25 subject to audit under this Act.

26 (c) Special Audits. If the Secretary of State is not
27 satisfied with the books, records and documents made
28 available for an audit, or if the Secretary of State is
29 unable to determine therefrom whether any fees or taxes are
30 due to the State of Illinois, or if there is cause to believe
31 that the person audited has declined or refused to supply the

1 books, records and documents necessary to determine whether a
2 deficiency exists, the Secretary of State may either seek a
3 court order for production of any and all books, records and
4 documents he deems relevant and material, or, in his
5 discretion, the Secretary of State may instead give written
6 notice to such person requiring him to produce any and all
7 books, records and documents necessary to properly audit and
8 determine whether any fees or taxes are due to the State of
9 Illinois. If such person fails, refuses or declines to comply
10 with either the court order or written notice within the time
11 specified, the Secretary of State shall then order a special
12 audit at the expense of the person affected. Upon completion
13 of the special audit, the Secretary of State shall determine
14 if any fees or taxes required to be paid under this Act have
15 not been paid, and make an assessment of any deficiency based
16 upon the books, records and documents available to him, and
17 in an assessment, he may rely upon records of other persons
18 having an operation similar to that of the person audited
19 specially. A person audited specially and subject to a court
20 order and in default thereof, shall in addition, be subject
21 to any penalty or punishment imposed by the court entering
22 the order.

23 (d) Deficiency; Audit Costs. When a deficiency is found
24 and any fees or taxes required to be paid under this Act have
25 not been paid to the State of Illinois, the Secretary of
26 State may impose an audit fee of \$50 per day, or \$25 per
27 half-day, per auditor, plus in the case of out-of-state
28 travel, transportation expenses incurred by the auditor or
29 auditors. Where more than one person is audited on the same
30 out-of-state trip, the additional transportation expenses may
31 be apportioned. The actual costs of a special audit shall be
32 imposed upon the person audited.

33 (e) Interest. When a deficiency is found and any fees or
34 taxes required to be paid under this Act have not been paid

1 to the State of Illinois, the amount of the deficiency, if
2 greater than \$100 for all registration years examined, shall
3 also bear interest at the rate of 1/2 of 1% per month or
4 fraction thereof, from the date when the fee or tax due
5 should have been paid under the provisions of this Act,
6 subject to a maximum of 6% per annum.

7 (f) Willful Negligence. When a deficiency is determined
8 by the Secretary to be caused by the willful neglect or
9 negligence of the person audited, an additional 10% penalty,
10 that is 10% of the amount of the deficiency or assessment,
11 shall be imposed, and the 10% penalty shall bear interest at
12 the rate of 1/2 of 1% on and after the 30th day after the
13 penalty is imposed until paid in full.

14 (g) Fraud or Evasion. When a deficiency is determined by
15 the Secretary to be caused by fraud or willful evasion of the
16 provisions of this Act, an additional penalty, that is 20% of
17 the amount of the deficiency or assessment, shall be imposed,
18 and the 20% penalty shall bear interest at the rate of 1/2 of
19 1% on and after the 30th day after the penalty is imposed
20 until paid in full.

21 (h) Notice. The Secretary of State shall give written
22 notice to any person audited, of the amount of any deficiency
23 found or assessment made, of the costs of an audit or special
24 audit, and of the penalty imposed, and payment shall be made
25 within 30 days of the date of the notice unless such person
26 petitions for a hearing.

27 However, except in the case of fraud or willful evasion,
28 or the inaccessibility of books and records for audit or with
29 the express consent of the person audited, no notice of a
30 deficiency or assessment shall be issued by the Secretary for
31 more than 3 registration years. This limitation shall
32 commence on any January 1 as to calendar year registrations
33 and on any July 1 as to fiscal year registrations. This
34 limitation shall not apply for any period during which the

1 person affected has declined or refuses to make his books and
2 records available for audit, nor during any period of time in
3 which an Order of any Court has the effect of enjoining or
4 restraining the Secretary from making an audit or issuing a
5 notice. Notwithstanding, each person licensed under the
6 International Registration Plan and audited by this State or
7 any member jurisdiction shall follow the assessment and
8 refund procedures as adopted and amended by the International
9 Registration Plan members. The Secretary of State shall have
10 the final decision as to which registrants may be subject to
11 the netting of audit fees as outlined in the International
12 Registration Plan. Persons audited may be subject to a
13 review process to determine the final outcome of the audit
14 finding. This process shall follow the adopted procedure as
15 outlined in the International Registration Plan. All
16 decisions by the IRP designated tribunal shall be binding.

17 (i) Every person subject to licensing or registration
18 and audit under the provisions of this Chapter shall retain
19 all pertinent licensing and registration documents, books,
20 records, tax returns, reports and all supporting records and
21 documents for a period of 4 years.

22 (j) Hearings. Any person receiving written notice of a
23 deficiency or assessment may, within 30 days after the date
24 of the notice, petition for a hearing before the Secretary of
25 State or his duly appointed hearing officer to contest the
26 audit in whole or in part, and the petitioner shall
27 simultaneously file a certified check or money order, or
28 certificate of deposit, or a surety bond approved by the
29 Secretary in the amount of the deficiency or assessment.
30 Hearings shall be held pursuant to the provisions of Section
31 2-118 of this Act.

32 (k) Judgments. The Secretary of State may enforce any
33 notice of deficiency or assessment pursuant to the provisions
34 of Section 3-831 of this Act.

1 (Source: P.A. 89-570, eff. 7-26-96.)

2 (625 ILCS 5/3-402.2) (from Ch. 95 1/2, par. 3-402.2)

3 Sec. 3-402.2. Audits. In addition to audit authority
4 set forth in Section 2-124 of this Act, the Secretary of
5 State, when this state is the base jurisdiction, may audit
6 such owners displaying a base plate of this state as to
7 authenticity of mileage figures and registrations and at such
8 time and frequency as determined by the Secretary of State.
9 Audits may be made by officials of other jurisdictions which
10 are members of an International Registration Plan (IRP) of
11 which this state is also a member.

12 Upon completion of any such audit, the Secretary of State
13 shall notify all jurisdictions in which such owner was
14 proportionally registered on the accuracy of the records of
15 such owner. Should such owner have underpaid or overpaid
16 under-paid any jurisdiction in which his vehicles were
17 proportionally registered, such information shall be
18 furnished to the jurisdiction for processing in accordance
19 with the procedures as set forth under the International
20 Registration Plan collection.

21 (Source: P.A. 87-206.)

22 (625 ILCS 5/3-824) (from Ch. 95 1/2, par. 3-824)

23 Sec. 3-824. When fees returnable.

24 (a) Whenever any application to the Secretary of State
25 is accompanied by any fee as required by law and such
26 application is refused or rejected, said fee shall be
27 returned to said applicant.

28 (b) Whenever the Secretary of State collects any fee not
29 required to be paid under the provisions of this Act, the
30 same shall be refunded to the person paying the same upon
31 application therefor made within 6 months after the date of
32 such payment, except as follows: (1) whenever a refund is

1 determined to be due and owing as a result of an audit, by
2 this State or any other state or province, in accordance with
3 Section 2-124 of this Code, of a prorate or apportion license
4 fee payment pursuant to any reciprocal compact or agreement
5 between this State and any other state or province, and the
6 Secretary for any reason fails to promptly make such refund,
7 the licensee shall have one year from the date of the
8 notification of the audit result to file, with the Secretary,
9 an application for refund found to be due and owing as a
10 result of such audit; and (2) whenever a person eligible for
11 a reduced registration fee pursuant to Section 3-806.3 of
12 this Code has paid in excess of the reduced registration fee
13 owed, the refund applicant shall have 2 years from the date
14 of overpayment to apply with the Secretary for a refund of
15 that part of payment made in excess of the established
16 reduced registration fee.

17 (c) Whenever a person dies after making application for
18 registration, application for a refund of the registration
19 fees and taxes may be made if the vehicle is then sold or
20 disposed of so that the registration plates, registration
21 sticker and card are never used. The Secretary of State
22 shall refund the registration fees and taxes upon receipt
23 within 6 months after the application for registration of an
24 application for refund accompanied with the unused
25 registration plates or registration sticker and card and
26 proof of both the death of the applicant and the sale or
27 disposition of the vehicle.

28 (d) Any application for refund received after the times
29 specified in this Section shall be denied and the applicant
30 in order to receive a refund must apply to the Court of
31 Claims.

32 (e) The Secretary of State is authorized to maintain a
33 two signature revolving checking account with a suitable
34 commercial bank for the purpose of depositing and

1 withdrawal-for-return those monies received and determined
2 upon receipt to be in excess of the amount or amounts
3 required by law.

4 (f) Refunds on audits performed by Illinois or another
5 member of the International Registration Plan shall be made
6 in accordance with the procedures as set forth in the
7 agreement.

8 (Source: P.A. 86-131.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.