

1 AMENDMENT TO SENATE BILL 697

2 AMENDMENT NO. _____. Amend Senate Bill 697 by replacing
3 everything after the enacting clause with the following:

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 ~~the~~ 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
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

1 at an election in accordance with the general election law.

2 The proposition shall be in substantially the following
3 form:

4 "Shall (name of county) be authorized to impose a
5 public safety tax at the rate of upon all persons
6 engaged in the business of selling tangible personal
7 property at retail in the county on gross receipts from
8 the sales made in the course of their business to be used
9 for crime prevention, detention, and other public safety
10 purposes?"

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

14 This additional tax may not be imposed on the sales of
15 food for human consumption that is to be consumed off the
16 premises where it is sold (other than alcoholic beverages,
17 soft drinks, and food which has been prepared for immediate
18 consumption) and prescription and non-prescription medicines,
19 drugs, medical appliances and insulin, urine testing
20 materials, syringes, and needles used by diabetics. The tax
21 imposed by a county under this Section and all civil
22 penalties that may be assessed as an incident of the tax
23 shall be collected and enforced by the Illinois Department of
24 Revenue. The certificate of registration that is issued by
25 the Department to a retailer under the Retailers' Occupation
26 Tax Act shall permit the retailer to engage in a business
27 that is taxable without registering separately with the
28 Department under an ordinance or resolution under this
29 Section. The Department has full power to administer and
30 enforce this Section, to collect all taxes and penalties due
31 under this Section, to dispose of taxes and penalties so
32 collected in the manner provided in this Section, and to
33 determine all rights to credit memoranda arising on account
34 of the erroneous payment of a tax or penalty under this

1 Section. In the administration of and compliance with this
2 Section, the Department and persons who are subject to this
3 Section shall (i) have the same rights, remedies, privileges,
4 immunities, powers, and duties, (ii) be subject to the same
5 conditions, restrictions, limitations, penalties, and
6 definitions of terms, and (iii) employ the same modes of
7 procedure as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e,
8 1f, 1i, 1j, 1k, 1m, 1n, 2, 2-5, 2-5.5, 2-10 (in respect to
9 all provisions contained in those Sections other than the
10 State rate of tax), 2-15 through 2-70, 2a, 2b, 2c, 3 (except
11 provisions relating to transaction returns and quarter
12 monthly payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,
13 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13
14 of the Retailers' Occupation Tax Act and Section 3-7 of the
15 Uniform Penalty and Interest Act as if those provisions were
16 set forth in this Section.

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

24 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 out of the County Public Safety Retailers'
31 Occupation Tax Fund.

32 (b) If a tax has been imposed under subsection (a), a
33 service occupation tax shall also be imposed at the same rate
34 upon all persons engaged, in the county, in the business of

1 making sales of service, who, as an incident to making those
2 sales of service, transfer tangible personal property within
3 the county as an incident to a sale of service. This tax may
4 not be imposed on sales of food for human consumption that is
5 to be consumed off the premises where it is sold (other than
6 alcoholic beverages, soft drinks, and food prepared for
7 immediate consumption) and prescription and non-prescription
8 medicines, drugs, medical appliances and insulin, urine
9 testing materials, syringes, and needles used by diabetics.
10 The tax imposed under this subsection and all civil penalties
11 that may be assessed as an incident thereof shall be
12 collected and enforced by the Department of Revenue. The
13 Department has full power to administer and enforce this
14 subsection; to collect all taxes and penalties due hereunder;
15 to dispose of taxes and penalties so collected in the manner
16 hereinafter provided; and to determine all rights to credit
17 memoranda arising on account of the erroneous payment of tax
18 or penalty hereunder. In the administration of, and
19 compliance with this subsection, the Department and persons
20 who are subject to this paragraph shall (i) have the same
21 rights, remedies, privileges, immunities, powers, and duties,
22 (ii) be subject to the same conditions, restrictions,
23 limitations, penalties, exclusions, exemptions, and
24 definitions of terms, and (iii) employ the same modes of
25 procedure as are prescribed in Sections 2 (except that the
26 reference to State in the definition of supplier maintaining
27 a place of business in this State shall mean the county), 2a,
28 2b, 2c, 3 through 3-50 (in respect to all provisions therein
29 other than the State rate of tax), 4 (except that the
30 reference to the State shall be to the county), 5, 7, 8
31 (except that the jurisdiction to which the tax shall be a
32 debt to the extent indicated in that Section 8 shall be the
33 county), 9 (except as to the disposition of taxes and
34 penalties collected), 10, 11, 12 (except the reference

1 therein to Section 2b of the Retailers' Occupation Tax Act),
2 13 (except that any reference to the State shall mean the
3 county), Section 15, 16, 17, 18, 19 and 20 of the Service
4 Occupation Tax Act and Section 3-7 of the Uniform Penalty and
5 Interest Act, as fully as if those provisions were set forth
6 herein.

7 Persons subject to any tax imposed under the authority
8 granted in this subsection may reimburse themselves for their
9 serviceman's tax liability by separately stating the tax as
10 an additional charge, which charge may be stated in
11 combination, in a single amount, with State tax that
12 servicemen are authorized to collect under the Service Use
13 Tax Act, in accordance with such bracket schedules as the
14 Department may prescribe.

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

23 Nothing in this subsection shall be construed to
24 authorize the county to impose a tax upon the privilege of
25 engaging in any business which under the Constitution of the
26 United States may not be made the subject of taxation by the
27 State.

28 (c) The Department shall immediately pay over to the
29 State Treasurer, ex officio, as trustee, all taxes and
30 penalties collected under this Section to be deposited into
31 the County Public Safety Retailers' Occupation Tax Fund,
32 which shall be an unappropriated trust fund held outside of
33 the State treasury. On or before the 25th day of each
34 calendar month, the Department shall prepare and certify to

1 the Comptroller the disbursement of stated sums of money to
2 the counties from which retailers have paid taxes or
3 penalties to the Department during the second preceding
4 calendar month. The amount to be paid to each county shall
5 be the amount (not including credit memoranda) collected
6 under this Section during the second preceding calendar month
7 by the Department plus an amount the Department determines is
8 necessary to offset any amounts that were erroneously paid to
9 a different taxing body, and not including (i) an amount
10 equal to the amount of refunds made during the second
11 preceding calendar month by the Department on behalf of the
12 county and (ii) any amount that the Department determines is
13 necessary to offset any amounts that were payable to a
14 different taxing body but were erroneously paid to the
15 county. Within 10 days after receipt by the Comptroller of
16 the disbursement certification to the counties provided for
17 in this Section to be given to the Comptroller by the
18 Department, the Comptroller shall cause the orders to be
19 drawn for the respective amounts in accordance with
20 directions contained in the certification.

21 In addition to the disbursement required by the preceding
22 paragraph, an allocation shall be made in March of each year
23 to each county that received more than \$500,000 in
24 disbursements under the preceding paragraph in the preceding
25 calendar year. The allocation shall be in an amount equal to
26 the average monthly distribution made to each such county
27 under the preceding paragraph during the preceding calendar
28 year (excluding the 2 months of highest receipts). The
29 distribution made in March of each year subsequent to the
30 year in which an allocation was made pursuant to this
31 paragraph and the preceding paragraph shall be reduced by the
32 amount allocated and disbursed under this paragraph in the
33 preceding calendar year. The Department shall prepare and
34 certify to the Comptroller for disbursement the allocations

1 made in accordance with this paragraph.

2 (d) For the purpose of determining the local
3 governmental unit whose tax is applicable, a retail sale by a
4 producer of coal or another mineral mined in Illinois is a
5 sale at retail at the place where the coal or other mineral
6 mined in Illinois is extracted from the earth. This
7 paragraph does not apply to coal or another mineral when it
8 is delivered or shipped by the seller to the purchaser at a
9 point outside Illinois so that the sale is exempt under the
10 United States Constitution as a sale in interstate or foreign
11 commerce.

12 (e) Nothing in this Section shall be construed to
13 authorize a county to impose a tax upon the privilege of
14 engaging in any business that under the Constitution of the
15 United States may not be made the subject of taxation by this
16 State.

17 (e-5) If a county imposes a tax under this Section, the
18 county board may, by ordinance, discontinue or lower the rate
19 of the tax. If the county board lowers the tax rate or
20 discontinues the tax, a referendum must be held in accordance
21 with subsection (a) of this Section in order to increase the
22 rate of the tax or to reimpose the discontinued tax.

23 (f) Beginning April 1, 1998, the results of any election
24 authorizing a proposition to impose a tax under this Section
25 or effecting a change in the rate of tax, or any ordinance
26 lowering the rate or discontinuing the tax, shall be
27 certified by the county clerk and filed with the Illinois
28 Department of Revenue either (i) on or before the first day
29 of April, whereupon the Department shall proceed to
30 administer and enforce the tax as of the first day of July
31 next following the filing; or (ii) on or before the first day
32 of October, whereupon the Department shall proceed to
33 administer and enforce the tax as of the first day of January
34 next following the filing.

1 (g) When certifying the amount of a monthly disbursement
2 to a county under this Section, the Department shall increase
3 or decrease the amounts by an amount necessary to offset any
4 miscalculation of previous disbursements. The offset amount
5 shall be the amount erroneously disbursed within the previous
6 6 months from the time a miscalculation is discovered.

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

9 (i) For purposes of this Section, "public safety"
10 includes but is not limited to fire fighting, police,
11 medical, ambulance, or other emergency services.

12 (Source: P.A. 89-107, eff. 1-1-96; 89-718, eff. 3-7-97;
13 90-190, eff. 7-24-97; 90-267, eff. 7-30-97; 90-552, eff.
14 12-12-97; 90-562, eff. 12-16-97; 90-655, eff. 7-30-98;
15 90-689, eff. 7-31-98.)".