



**Filed: 5/19/2004**

09300HB0851sam002

LRB093 05715 MKM 51336 a

1 AMENDMENT TO HOUSE BILL 851

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 851 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Watercraft Use Tax Law.

6 Section 5. Definitions. For the purposes of this Law:

7 "Department" means the Department of Revenue.

8 "Purchase price" means the reasonable consideration paid  
9 for a watercraft valued at \$10,000 or more whether received in  
10 money or otherwise, including, but not limited to, cash,  
11 credits, property, and services, and including the value of any  
12 motor sold with, or in conjunction with, the watercraft. Except  
13 in the case of transfers between immediate family members,  
14 reasonable consideration ordinarily means the fair market  
15 value on the date the watercraft or the share of the watercraft  
16 was acquired or the date the watercraft was brought into this  
17 State, whichever is later, unless the taxpayer can demonstrate  
18 that a different value is reasonable. In the case of transfers  
19 between immediate family members, reasonable consideration  
20 ordinarily means the consideration actually paid, unless it  
21 appears from the facts and circumstances that the primary  
22 motivation of the transfer was the avoidance of tax.

23 "Watercraft" means:

24 (1) Class 1, Class 2, Class 3, and Class 4 watercraft,

1 as defined in Section 3-2 of the Boat Registration and  
2 Safety Act;

3 (2) personal watercraft, as defined in Section 1-2 of  
4 the Boat Registration and Safety Act; and

5 (3) any boat equipped with an inboard motor.

6 Section 10. Tax imposed. A tax is hereby imposed on the  
7 privilege of using, in this State, any watercraft acquired by  
8 gift, transfer, or purchase after June 30, 2004. This tax does  
9 not apply if: (i) the use of the watercraft is otherwise taxed  
10 under the Use Tax Act; (ii) the watercraft is bought and used  
11 by a governmental agency or a society, association, foundation,  
12 or institution organized and operated exclusively for  
13 charitable, religious, or educational purposes and that entity  
14 has been issued an exemption identification number under  
15 Section 1g of the Retailers' Occupation Tax Act; (iii) the use  
16 of the watercraft is not subject to the Use Tax Act by reason  
17 of subsection (a), (b), (c), (d), or (e) of Section 3-55 of  
18 that Act dealing with the prevention of actual or likely  
19 multi-state taxation; or (iv) the transfer is a gift to a  
20 beneficiary in the administration of an estate and the  
21 beneficiary is a surviving spouse.

22 Section 15. Rate of tax.

23 The rate of tax is 6.25% of the purchase price for each  
24 purchase of watercraft that is subject to tax under this Law.  
25 When an ownership share of a watercraft is acquired, the tax is  
26 imposed on the purchase price of that share. All owners are  
27 jointly and severally liable for any tax due as a result of the  
28 purchase, gift, or transfer of an ownership share of the  
29 watercraft.

30 Section 20. Returns.

31 (a) The purchaser, transferee, or donee shall file with the

1 Department a return signed by the purchaser, transferee, or  
2 donee on a form prescribed by the Department. The return shall  
3 contain a verification in substantially the following form and  
4 such other information as the Department may reasonably  
5 require:

6 VERIFICATION

7 I declare that I have examined this return and, to the best  
8 of my knowledge, it is true, correct, and complete. I  
9 understand that the penalty for willfully filing a false  
10 return is a fine not to exceed \$1,000 or imprisonment in a  
11 penal institution other than the penitentiary not to exceed  
12 one year, or both a fine and imprisonment.

13 (b) The return and payment from the purchaser, transferee,  
14 or donee shall be submitted to the Department within 30 days  
15 after the date of purchase, donation, or other transfer or the  
16 date the watercraft is brought into this State, whichever is  
17 later. Payment of tax is a condition to securing certificate of  
18 title for the watercraft from the Department of Natural  
19 Resources. When a purchaser, transferee, or donee pays the tax  
20 imposed by Section 10 of this Law, the Department (upon request  
21 therefor from the purchaser, transferee, or donee) shall issue  
22 an appropriate receipt to the purchaser, transferee, or donee  
23 showing that he or she has paid the tax to the Department. The  
24 receipt shall be sufficient to relieve the purchaser,  
25 transferee, or donee from further liability for the tax to  
26 which the receipt may refer.

27 Section 25. Filing false or incomplete return. Any person  
28 required to file a return under this Law who willfully files a  
29 false or incomplete return is guilty of a Class A misdemeanor.

30 Section 30. Determining purchase price. For the purpose of  
31 assisting in determining the validity of the purchase price  
32 reported on returns filed with the Department, the Department

1 may furnish the following information to persons with whom the  
2 Department has contracted for service related to making that  
3 determination: (i) the purchase price stated on the return;  
4 (ii) the watercraft identification number; (iii) the year, the  
5 make, and the model name or number of the watercraft; (iv) the  
6 purchase date; and (v) the hours of operation.

7 Section 35. Powers of Department. The Department has full  
8 power to: (i) administer and enforce this Law; (ii) collect all  
9 taxes, penalties, and interest due under this Law; (iii)  
10 dispose of taxes, penalties, and interest so collected in the  
11 manner set forth in this Law; and (iv) determine all rights to  
12 credit memoranda or refunds arising on account of the erroneous  
13 payment of tax, penalty, or interest under this Law. In the  
14 administration of, and compliance with, this Law, the  
15 Department and persons who are subject to this Law have the  
16 same rights, remedies, privileges, immunities, powers, and  
17 duties, and are subject to the same conditions, restrictions,  
18 limitations, penalties, and definitions of terms, and employ  
19 the same modes of procedure, as are prescribed in the Use Tax  
20 Act (except for the provisions of Section 3-70), that are not  
21 inconsistent with this Law, as fully as if the provisions of  
22 the Use Tax Act were set forth in this Law. In addition to any  
23 other penalties imposed under law, any person convicted of  
24 violating the provisions of this Law shall be assessed a fine  
25 of \$1,000.

26 Section 40. Payments to Local Government Distributive Fund  
27 and General Revenue Fund. The Department shall each month, upon  
28 collecting any taxes as provided in this Law, pay 20% of the  
29 money collected into the Local Government Distributive Fund, a  
30 special fund in the State treasury, and 80% into the General  
31 Revenue Fund.

1 Section 45. Rules. The Department has the authority to  
2 adopt such rules as are reasonable and necessary to implement  
3 the provisions of this Law.

4 Section 990. The Retailers' Occupation Tax Act is amended  
5 by changing Section 1c as follows:

6 (35 ILCS 120/1c) (from Ch. 120, par. 440c)

7 Sec. 1c. A person who is engaged in the business of leasing  
8 or renting motor vehicles or, beginning July 1, 2003, aircraft  
9 or, beginning July 1, 2004, watercraft to others and who, in  
10 connection with such business sells any used motor vehicle, ~~or~~  
11 aircraft, or watercraft to a purchaser for his use and not for  
12 the purpose of resale, is a retailer engaged in the business of  
13 selling tangible personal property at retail under this Act to  
14 the extent of the value of the vehicle or aircraft sold. For  
15 the purpose of this Section "motor vehicle" has the meaning  
16 prescribed in Section 1-157 of the Illinois Vehicle Code, as  
17 now or hereafter amended. For the purpose of this Section  
18 "aircraft" has the meaning prescribed in Section 3 of the  
19 Illinois Aeronautics Act. For the purpose of this Section,  
20 "watercraft" has the meaning prescribed in Section 5 of the  
21 Watercraft Use Tax Law. (Nothing provided herein shall affect  
22 liability incurred under this Act because of the sale at retail  
23 of such motor vehicles, ~~or~~ aircraft, or watercraft to a  
24 lessor.)

25 (Source: P.A. 93-24, eff. 6-20-03.)

26 Section 995. The Boat Registration and Safety Act is  
27 amended by changing Section 3A-5 as follows:

28 (625 ILCS 45/3A-5) (from Ch. 95 1/2, par. 313A-5)

29 Sec. 3A-5. Certificate of title - Issuance - Records.

30 (a) The Department of Natural Resources shall file each

1 application received and, when satisfied as to its genuineness  
2 and regularity, and that no tax imposed by the "Use Tax Act" or  
3 the Watercraft Use Tax Law is owed as evidenced by the receipt  
4 for payment or determination of exemption from the Department  
5 of Revenue provided for in Section 3A-3 of this Article, and  
6 that the applicant is entitled to the issuance of a certificate  
7 of title, shall issue a certificate of title.

8 (b) The Department of Natural Resources shall maintain a  
9 record of all certificates of title issued under a distinctive  
10 title number assigned to the watercraft and, in the discretion  
11 of the Department, in any other method determined.

12 (Source: P.A. 89-445, eff. 2-7-96.)

13 Section 999. Effective date. This Act takes effect July 1,  
14 2004."