

# SB2181



## 95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2181

Introduced 2/14/2008, by Sen. James F. Clayborne, Jr.

### SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1005.6 new

Amends the Counties Code. Provides that a county may impose a special county retailers' occupation tax for probation services.

LRB095 18884 HLH 45028 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 Section  
5 5-1005.6 as follows:

6 (55 ILCS 5/5-1005.6 new)

7 Sec. 5-1005.6. Special County Retailers' Occupation Tax  
8 For Probation Services.

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 this State's government, at retail  
13 in the county on the gross receipts from the sales made in the  
14 course of business to provide revenue to be used exclusively  
15 for probation services in that county. If imposed, this tax  
16 shall be imposed only in one-quarter percent increments.

17 This additional tax may not be imposed on the sales of food  
18 for human consumption that is to be consumed off the premises  
19 where it is sold (other than alcoholic beverages, soft drinks,  
20 and food which has been prepared for immediate consumption) and  
21 prescription and non-prescription medicines, drugs, medical  
22 appliances and insulin, urine testing materials, syringes, and  
23 needles used by diabetics. The tax imposed by a county under

1 this Section and all civil penalties that may be assessed as an  
2 incident of the tax shall be collected and enforced by the  
3 Illinois Department of Revenue and deposited into a special  
4 fund created for that purpose. The certificate of registration  
5 that is issued by the Department to a retailer under the  
6 Retailers' Occupation Tax Act shall permit the retailer to  
7 engage in a business that is taxable without registering  
8 separately with the Department under an ordinance or resolution  
9 under this Section. The Department has full power to administer  
10 and enforce this Section, to collect all taxes and penalties  
11 due under this Section, to dispose of taxes and penalties so  
12 collected in the manner provided in this Section, and to  
13 determine all rights to credit memoranda arising on account of  
14 the erroneous payment of a tax or penalty under this Section.  
15 In the administration of and compliance with this Section, the  
16 Department and persons who are subject to this Section shall  
17 (i) have the same rights, remedies, privileges, immunities,  
18 powers, and duties, (ii) be subject to the same conditions,  
19 restrictions, limitations, penalties, and definitions of  
20 terms, and (iii) employ the same modes of procedure as are  
21 prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 1k, 1m,  
22 1n, 2 through 2-70 (in respect to all provisions contained in  
23 those Sections other than the State rate of tax), 2a, 2b, 2c, 3  
24 (except provisions relating to transaction returns and quarter  
25 monthly payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,  
26 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of

1 the Retailers' Occupation Tax Act and Section 3-7 of the  
2 Uniform Penalty and Interest Act as if those provisions were  
3 set forth in this Section.

4 Persons subject to any tax imposed under the authority  
5 granted in this Section may reimburse themselves for their  
6 sellers' tax liability by separately stating the tax as an  
7 additional charge, which charge may be stated in combination,  
8 in a single amount, with State tax which sellers are required  
9 to collect under the Use Tax Act, pursuant to such bracketed  
10 schedules as the Department may prescribe.

11 Whenever the Department determines that a refund should be  
12 made under this Section to a claimant instead of issuing a  
13 credit memorandum, the Department shall notify the State  
14 Comptroller, who shall cause the order to be drawn for the  
15 amount specified and to the person named in the notification  
16 from the Department. The refund shall be paid by the State  
17 Treasurer out of the County Probation Services Retailers'  
18 Occupation Tax Fund.

19 (b) If a tax has been imposed under subsection (a), a  
20 service occupation tax shall also be imposed at the same rate  
21 upon all persons engaged, in the county, in the business of  
22 making sales of service, who, as an incident to making those  
23 sales of service, transfer tangible personal property within  
24 the county as an incident to a sale of service. This tax may  
25 not be imposed on sales of food for human consumption that is  
26 to be consumed off the premises where it is sold (other than

1 alcoholic beverages, soft drinks, and food prepared for  
2 immediate consumption) and prescription and non-prescription  
3 medicines, drugs, medical appliances and insulin, urine  
4 testing materials, syringes, and needles used by diabetics. The  
5 tax imposed under this subsection and all civil penalties that  
6 may be assessed as an incident thereof shall be collected and  
7 enforced by the Department of Revenue. The Department has full  
8 power to administer and enforce this subsection; to collect all  
9 taxes and penalties due hereunder; to dispose of taxes and  
10 penalties so collected in the manner hereinafter provided; and  
11 to determine all rights to credit memoranda arising on account  
12 of the erroneous payment of tax or penalty hereunder. In the  
13 administration of, and compliance with this subsection, the  
14 Department and persons who are subject to this paragraph shall  
15 (i) have the same rights, remedies, privileges, immunities,  
16 powers, and duties, (ii) be subject to the same conditions,  
17 restrictions, limitations, penalties, exclusions, exemptions,  
18 and definitions of terms, and (iii) employ the same modes of  
19 procedure as are prescribed in Sections 2 (except that the  
20 reference to State in the definition of supplier maintaining a  
21 place of business in this State shall mean the county), 2a, 2b,  
22 2c, 3 through 3-50 (in respect to all provisions therein other  
23 than the State rate of tax), 4 (except that the reference to  
24 the State shall be to the county), 5, 7, 8 (except that the  
25 jurisdiction to which the tax shall be a debt to the extent  
26 indicated in that Section 8 shall be the county), 9 (except as

1 to the disposition of taxes and penalties collected), 10, 11,  
2 12 (except the reference therein to Section 2b of the  
3 Retailers' Occupation Tax Act), 13 (except that any reference  
4 to the State shall mean the county), Section 15, 16, 17, 18, 19  
5 and 20 of the Service Occupation Tax Act and Section 3-7 of the  
6 Uniform Penalty and Interest Act, as fully as if those  
7 provisions were set forth herein.

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

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

24 Nothing in this subsection shall be construed to authorize  
25 the county to impose a tax upon the privilege of engaging in  
26 any business which under the Constitution of the United States

1 may not be made the subject of taxation by the State.

2 (c) The Department shall immediately pay over to the State  
3 Treasurer, ex officio, as trustee, all taxes and penalties  
4 collected under this Section to be deposited into the County  
5 Probation Services Retailers' Occupation Tax Fund, which shall  
6 be an unappropriated trust fund held outside of the State  
7 treasury. On or before the 25th day of each calendar month, the  
8 Department shall prepare and certify to the Comptroller the  
9 disbursement of stated sums of money to the counties from which  
10 retailers have paid taxes or penalties to the Department during  
11 the second preceding calendar month. The amount to be paid to  
12 each county, and deposited by the county into its special fund  
13 created for the purposes of this Section, shall be the amount  
14 (not including credit memoranda) collected under this Section  
15 during the second preceding calendar month by the Department  
16 plus an amount the Department determines is necessary to offset  
17 any amounts that were erroneously paid to a different taxing  
18 body, and not including (i) an amount equal to the amount of  
19 refunds made during the second preceding calendar month by the  
20 Department on behalf of the county and (ii) any amount that the  
21 Department determines is necessary to offset any amounts that  
22 were payable to a different taxing body but were erroneously  
23 paid to the county. Within 10 days after receipt by the  
24 Comptroller of the disbursement certification to the counties  
25 provided for in this Section to be given to the Comptroller by  
26 the Department, the Comptroller shall cause the orders to be

1 drawn for the respective amounts in accordance with directions  
2 contained in the certification.

3 In addition to the disbursement required by the preceding  
4 paragraph, an allocation shall be made in March of each year to  
5 each county that received more than \$500,000 in disbursements  
6 under the preceding paragraph in the preceding calendar year.  
7 The allocation shall be in an amount equal to the average  
8 monthly distribution made to each such county under the  
9 preceding paragraph during the preceding calendar year. The  
10 distribution made in March of each year subsequent to the year  
11 in which an allocation was made pursuant to this paragraph and  
12 the preceding paragraph shall be reduced by the amount  
13 allocated and disbursed under this paragraph in the preceding  
14 calendar year. The Department shall prepare and certify to the  
15 Comptroller for disbursement the allocations made in  
16 accordance with this paragraph.

17 (d) For the purpose of determining the local governmental  
18 unit whose tax is applicable, a retail sale by a producer of  
19 coal or another mineral mined in Illinois is a sale at retail  
20 at the place where the coal or other mineral mined in Illinois  
21 is extracted from the earth. This paragraph does not apply to  
22 coal or another mineral when it is delivered or shipped by the  
23 seller to the purchaser at a point outside Illinois so that the  
24 sale is exempt under the United States Constitution as a sale  
25 in interstate or foreign commerce.

26 (e) Nothing in this Section shall be construed to authorize



1 a county to impose a tax upon the privilege of engaging in any  
2 business that under the Constitution of the United States may  
3 not be made the subject of taxation by this State.

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

10 (g) This Section may be cited as the "Special County  
11 Occupation Tax For Probation Services Law".