

HB4083



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4083

by Rep. Michelle Mussman

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1009

from Ch. 34, par. 5-1009

55 ILCS 5/5-1009.5 new

Amends the Counties Code. Provides that, on and after the effective date of this amendatory Act, no home rule county or non-home rule county has the authority to impose a tax on the use, sale, or purchase of sweetened beverages based upon the weight or volume of the sweetened beverage. Provides that any such tax in effect prior to that date is void and repealed. Defines "sweetened beverage". Preempts home rule. Effective immediately.

LRB100 13854 JWD 28580 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE 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 changing Section
5 5-1009 and by adding Section 5-1009.5 as follows:

6 (55 ILCS 5/5-1009) (from Ch. 34, par. 5-1009)

7 Sec. 5-1009. Limitation on home rule powers.

8 (a) Except as provided in Sections 5-1006, 5-1006.5, 5-1007
9 and 5-1008, on and after September 1, 1990, no home rule county
10 has the authority to impose, pursuant to its home rule
11 authority, a retailer's occupation tax, service occupation
12 tax, use tax, sales tax or other tax on the use, sale or
13 purchase of tangible personal property based on the gross
14 receipts from such sales or the selling or purchase price of
15 said tangible personal property.

16 (b) Except as provided in Sections 5-1006, 5-1006.5,
17 5-1007, and 5-1008, on and after the effective date of this
18 amendatory Act of the 100th General Assembly, no home rule
19 county has the authority to impose a retailer's occupation tax,
20 service occupation tax, use tax, sales tax, or other tax on the
21 use, sale, or purchase of sweetened beverages based upon the
22 weight or volume of the sweetened beverage, and any such tax in
23 effect prior to that date is void and repealed.

1 For the purposes of this Section, "sweetened beverage"
2 means any non-alcoholic beverage, carbonated or
3 non-carbonated, which is intended for human consumption and
4 contains any natural or artificial sweeteners. "Sweetened
5 beverage" includes, but is not limited to, a beverage contained
6 in a closed or sealed bottle, can, carton, or other container
7 or produced for sale through the use of syrup, powder, or syrup
8 and powder.

9 (c) Notwithstanding the foregoing, this Section does not
10 preempt any home rule imposed tax such as the following: (1) a
11 tax on alcoholic beverages, whether based on gross receipts,
12 volume sold or any other measurement; (2) a tax based on the
13 number of units of cigarettes or tobacco products; (3) a tax,
14 however measured, based on the use of a hotel or motel room or
15 similar facility; (4) a tax, however measured, on the sale or
16 transfer of real property; (5) a tax, however measured, on
17 lease receipts; (6) a tax on food prepared for immediate
18 consumption and on alcoholic beverages sold by a business which
19 provides for on premise consumption of said food or alcoholic
20 beverages; or (7) other taxes not based on the selling or
21 purchase price or gross receipts from the use, sale or purchase
22 of tangible personal property. This Section does not preempt a
23 home rule county from imposing a tax, however measured, on the
24 use, for consideration, of a parking lot, garage, or other
25 parking facility.

26 (d) This Section is a limitation, pursuant to subsection

1 (g) of Section 6 of Article VII of the Illinois Constitution,
2 on the power of home rule units to tax.

3 (Source: P.A. 97-1168, eff. 3-8-13; 97-1169, eff. 3-8-13.)

4 (55 ILCS 5/5-1009.5 new)

5 Sec. 5-1009.5. Non-home rule counties sweetened beverage
6 tax.

7 (a) Except as otherwise provided in this Code, on and after
8 the effective date of this amendatory Act of the 100th General
9 Assembly, no non-home rule county has the authority to impose a
10 retailer's occupation tax, service occupation tax, use tax,
11 sales tax, or other tax on the use, sale, or purchase of
12 sweetened beverages based upon the weight or volume of the
13 sweetened beverage, and any such tax in effect prior to that
14 date is void and repealed.

15 For the purposes of this Section, "sweetened beverage" has
16 the same meaning as under subsection (b) of Section 5-1009 of
17 this Code.

18 (b) Notwithstanding the foregoing, this Section does not
19 prohibit any tax on alcoholic beverages, whether based on gross
20 receipts, volume sold, or any other measurement.

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.