

SB0540



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB0540

Introduced 2/23/2021, by Sen. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

65 ILCS 5/8-11-6a

from Ch. 24, par. 8-11-6a

Amends the Illinois Municipal Code. In a Section concerning preemption of certain taxes in home rule municipalities, provides that nothing in the Section shall be construed as prohibiting a home rule municipality that imposed a tax based on the number of units of cigarettes or other tobacco products before July 1, 1993 from imposing a tax on either the number of units of cigarettes or other tobacco products, or both, on or after July 1, 1993.

LRB102 10599 AWJ 15928 b

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 Illinois Municipal Code is amended by
5 changing Section 8-11-6a as follows:

6 (65 ILCS 5/8-11-6a) (from Ch. 24, par. 8-11-6a)

7 Sec. 8-11-6a. Home rule municipalities; preemption of
8 certain taxes. Except as provided in Sections 8-11-1, 8-11-5,
9 8-11-6, 8-11-6b, 8-11-6c, 8-11-23, and 11-74.3-6 on and after
10 September 1, 1990, no home rule municipality has the authority
11 to impose, pursuant to its home rule authority, a retailer's
12 occupation tax, service occupation tax, use tax, sales tax or
13 other tax on the use, sale or purchase of tangible personal
14 property based on the gross receipts from such sales or the
15 selling or purchase price of said tangible personal property.
16 Notwithstanding the foregoing, this Section does not preempt
17 any home rule imposed tax such as the following: (1) a tax on
18 alcoholic beverages, whether based on gross receipts, volume
19 sold or any other measurement; (2) a tax based on the number of
20 units of cigarettes or tobacco products (provided, however,
21 that a home rule municipality that has not imposed a tax based
22 on the number of units of cigarettes or tobacco products
23 before July 1, 1993, shall not impose such a tax after that

1 date); (3) a tax, however measured, based on the use of a hotel
2 or motel room or similar facility; (4) a tax, however
3 measured, on the sale or transfer of real property; (5) a tax,
4 however measured, on lease receipts; (6) a tax on food
5 prepared for immediate consumption and on alcoholic beverages
6 sold by a business which provides for on premise consumption
7 of said food or alcoholic beverages; or (7) other taxes not
8 based on the selling or purchase price or gross receipts from
9 the use, sale or purchase of tangible personal property. This
10 Section does not preempt a home rule municipality with a
11 population of more than 2,000,000 from imposing a tax, however
12 measured, on the use, for consideration, of a parking lot,
13 garage, or other parking facility. This Section is not
14 intended to affect any existing tax on food and beverages
15 prepared for immediate consumption on the premises where the
16 sale occurs, or any existing tax on alcoholic beverages, or
17 any existing tax imposed on the charge for renting a hotel or
18 motel room, which was in effect January 15, 1988, or any
19 extension of the effective date of such an existing tax by
20 ordinance of the municipality imposing the tax, which
21 extension is hereby authorized, in any non-home rule
22 municipality in which the imposition of such a tax has been
23 upheld by judicial determination, nor is this Section intended
24 to preempt the authority granted by Public Act 85-1006. On and
25 after December 1, 2019, no home rule municipality has the
26 authority to impose, pursuant to its home rule authority, a

1 tax, however measured, on sales of aviation fuel, as defined
2 in Section 3 of the Retailers' Occupation Tax Act, unless the
3 tax is not subject to the revenue use requirements of 49 U.S.C.
4 47107(b) and 49 U.S.C. 47133, or unless the tax revenue is
5 expended for airport-related purposes. For purposes of this
6 Section, "airport-related purposes" has the meaning ascribed
7 in Section 6z-20.2 of the State Finance Act. Aviation fuel
8 shall be excluded from tax only if, and for so long as, the
9 revenue use requirements of 49 U.S.C. 47107(b) and 49 U.S.C.
10 47133 are binding on the municipality. Nothing in this Section
11 shall be construed as prohibiting a home rule municipality
12 that imposed a tax based on the number of units of cigarettes
13 or other tobacco products before July 1, 1993 from imposing a
14 tax on either the number of units of cigarettes or other
15 tobacco products, or both, on or after July 1, 1993. This
16 Section is a limitation, pursuant to subsection (g) of Section
17 6 of Article VII of the Illinois Constitution, on the power of
18 home rule units to tax. The changes made to this Section by
19 Public Act 101-10 are a denial and limitation of home rule
20 powers and functions under subsection (g) of Section 6 of
21 Article VII of the Illinois Constitution.

22 (Source: P.A. 101-10, eff. 6-5-19; 101-27, eff. 6-25-19;
23 101-593, eff. 12-4-19.)