

AN ACT concerning revenue.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Retailers' Occupation Tax Act is amended by changing Section 2-12 as follows:

(35 ILCS 120/2-12)

Sec. 2-12. Location where retailer is deemed to be engaged in the business of selling. The purpose of this Section is to specify where a retailer is deemed to be engaged in the business of selling tangible personal property for the purposes of this Act, the Use Tax Act, the Service Use Tax Act, and the Service Occupation Tax Act, and for the purpose of collecting any other local retailers' occupation tax administered by the Department. This Section applies only with respect to the particular selling activities described in the following paragraphs. The provisions of this Section are not intended to, and shall not be interpreted to, affect where a retailer is deemed to be engaged in the business of selling with respect to any activity that is not specifically described in the following paragraphs.

(1) If a purchaser who is present at the retailer's place of business, having no prior commitment to the retailer, agrees to purchase and makes payment for tangible

personal property at the retailer's place of business, then the transaction shall be deemed an over-the-counter sale occurring at the retailer's same place of business where the purchaser was present and made payment for that tangible personal property if the retailer regularly stocks the purchased tangible personal property or similar tangible personal property in the quantity, or similar quantity, for sale at the retailer's same place of business and then either (i) the purchaser takes possession of the tangible personal property at the same place of business or (ii) the retailer delivers or arranges for the tangible personal property to be delivered to the purchaser.

(2) If a purchaser, having no prior commitment to the retailer, agrees to purchase tangible personal property and makes payment over the phone, in writing, or via the Internet and takes possession of the tangible personal property at the retailer's place of business, then the sale shall be deemed to have occurred at the retailer's place of business where the purchaser takes possession of the property if the retailer regularly stocks the item or similar items in the quantity, or similar quantities, purchased by the purchaser.

(3) A retailer is deemed to be engaged in the business of selling food, beverages, or other tangible personal property through a vending machine at the location where the vending machine is located at the time the sale is made

if (i) the vending machine is a device operated by coin, currency, credit card, token, coupon or similar device; (2) the food, beverage or other tangible personal property is contained within the vending machine and dispensed from the vending machine; and (3) the purchaser takes possession of the purchased food, beverage or other tangible personal property immediately.

(4) Minerals. A producer of coal or other mineral mined in Illinois is deemed to be engaged in the business of selling at the place where the coal or other mineral mined in Illinois is extracted from the earth. With respect to minerals (i) the term "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine, and (ii) a "mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth. This paragraph does not apply to coal or another mineral when it is delivered or shipped by the seller to the purchaser at a point outside Illinois so that the sale is exempt under the United States Constitution as a sale in interstate or foreign commerce.

(5) A retailer selling tangible personal property to a nominal lessee or bailee pursuant to a lease with a dollar or other nominal option to purchase is engaged in the business of selling at the location where the property is

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first delivered to the lessee or bailee for its intended use.

(Source: P.A. 98-1098, eff. 8-26-14.)

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