

# HB4424



## 102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

**HB4424**

by Rep. Michael J. Zalewski

### SYNOPSIS AS INTRODUCED:

65 ILCS 5/8-11-2.3

Amends the Illinois Municipal Code. Provides that all municipalities (currently, only municipalities in a county with a population of over 3,000,000 inhabitants) may impose a motor fuel tax. Effective immediately.

LRB102 22257 AWJ 31390 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 8-11-2.3 as follows:

6 (65 ILCS 5/8-11-2.3)

7 Sec. 8-11-2.3. Municipal Motor Fuel Tax Law.  
8 Notwithstanding any other provision of law, in addition to any  
9 other tax that may be imposed, a municipality ~~in a county with~~  
10 ~~a population of over 3,000,000 inhabitants~~ may also impose, by  
11 ordinance, a tax upon all persons engaged in the municipality  
12 in the business of selling motor fuel, as defined in the Motor  
13 Fuel Tax Law, at retail for the operation of motor vehicles  
14 upon public highways or for the operation of recreational  
15 watercraft upon waterways. The tax may be imposed, in one cent  
16 increments, at a rate not to exceed \$0.03 per gallon of motor  
17 fuel sold at retail within the municipality for the purpose of  
18 use or consumption and not for the purpose of resale. The tax  
19 may not be imposed under this Section on aviation fuel, as  
20 defined in Section 3 of the Retailers' Occupation Tax Act.

21 Persons subject to any tax imposed under the authority  
22 granted in this Section may reimburse themselves for their  
23 seller's tax liability hereunder by separately stating that

1 tax as an additional charge, which charge may be stated in  
2 combination, in a single amount, with State tax which sellers  
3 are required to collect under the Use Tax Act, pursuant to such  
4 bracket schedules as the Department may prescribe.

5 A tax imposed pursuant to this Section, and all civil  
6 penalties that may be assessed as an incident thereof, shall  
7 be administered, collected, and enforced by the Department of  
8 Revenue in the same manner as the tax imposed under the  
9 Retailers' Occupation Tax Act, as now or hereafter amended,  
10 insofar as may be practicable; except that in the event of a  
11 conflict with the provisions of this Section, this Section  
12 shall control. The Department of Revenue shall have full power  
13 to: administer and enforce this Section; collect all taxes and  
14 penalties due hereunder; dispose of taxes and penalties so  
15 collected in the manner hereinafter provided; and determine  
16 all rights to credit memoranda arising on account of the  
17 erroneous payment of tax or penalty hereunder.

18 Whenever the Department determines that a refund shall be  
19 made under this Section to a claimant instead of issuing a  
20 credit memorandum, the Department shall notify the State  
21 Comptroller, who shall cause the order to be drawn for the  
22 amount specified, and to the person named, in the notification  
23 from the Department. The refund shall be paid by the State  
24 Treasurer out of the Municipal Motor Fuel Tax Fund.

25 The Department shall immediately pay over to the State  
26 Treasurer, ex officio, as trustee, all taxes and penalties

1 collected under this Section. Those taxes and penalties shall  
2 be deposited into the Municipal Motor Fuel Tax Fund, a trust  
3 fund created in the State treasury. Moneys in the Municipal  
4 Motor Fuel Tax Fund shall be used to make payments to  
5 municipalities and for the payment of refunds under this  
6 Section.

7 On or before the 25th day of each calendar month, the  
8 Department shall prepare and certify to the State Comptroller  
9 the disbursement of stated sums of money to named  
10 municipalities for which taxpayers have paid taxes or  
11 penalties hereunder to the Department during the second  
12 preceding calendar month. The amount to be paid to each  
13 municipality shall be the amount (not including credit  
14 memoranda) collected under this Section from retailers within  
15 the municipality during the second preceding calendar month by  
16 the Department, plus an amount the Department determines is  
17 necessary to offset amounts that were erroneously paid to a  
18 different municipality, and not including an amount equal to  
19 the amount of refunds made during the second preceding  
20 calendar month by the Department on behalf of the  
21 municipality, and not including any amount that the Department  
22 determines is necessary to offset any amounts that were  
23 payable to a different municipality but were erroneously paid  
24 to the municipality, less 1.5% of the remainder, which the  
25 Department shall transfer into the Tax Compliance and  
26 Administration Fund. The Department, at the time of each

1 monthly disbursement, shall prepare and certify to the State  
2 Comptroller the amount to be transferred into the Tax  
3 Compliance and Administration Fund under this Section. Within  
4 10 days after receipt by the Comptroller of the disbursement  
5 certification to the municipalities and the Tax Compliance and  
6 Administration Fund provided for in this Section to be given  
7 to the Comptroller by the Department, the Comptroller shall  
8 cause the orders to be drawn for the respective amounts in  
9 accordance with the directions contained in the certification.

10 Nothing in this Section shall be construed to authorize a  
11 municipality to impose a tax upon the privilege of engaging in  
12 any business which under the Constitution of the United States  
13 may not be made the subject of taxation by this State.

14 An ordinance or resolution imposing or discontinuing the  
15 tax under this Section or effecting a change in the rate  
16 thereof shall either: (i) be adopted and a certified copy  
17 thereof filed with the Department on or before the first day of  
18 April, whereupon the Department shall proceed to administer  
19 and enforce this Section as of the first day of July next  
20 following the adoption and filing; or (ii) be adopted and a  
21 certified copy thereof filed with the Department on or before  
22 the first day of October, whereupon the Department shall  
23 proceed to administer and enforce this Section as of the first  
24 day of January next following the adoption and filing.

25 An ordinance adopted in accordance with the provisions of  
26 this Section in effect before the effective date of this

1 amendatory Act of the 101st General Assembly shall be deemed  
2 to impose the tax in accordance with the provisions of this  
3 Section as amended by this amendatory Act of the 101st General  
4 Assembly and shall be administered by the Department of  
5 Revenue in accordance with the provisions of this Section as  
6 amended by this amendatory Act of the 101st General Assembly;  
7 provided that, on or before October 1, 2020, the municipality  
8 adopts and files a certified copy of a superseding ordinance  
9 that imposes the tax in accordance with the provisions of this  
10 Section as amended by this amendatory Act of the 101st General  
11 Assembly. If a superseding ordinance is not so adopted and  
12 filed, then the tax imposed in accordance with the provisions  
13 of this Section in effect before the effective date of this  
14 amendatory Act of the 101st General Assembly shall be  
15 discontinued on January 1, 2021.

16 This Section shall be known and may be cited as the  
17 Municipal Motor Fuel Tax Law.

18 (Source: P.A. 101-32, eff. 6-28-19; 101-604, eff. 12-13-19.)

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