



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB0906

by Rep. Michelle Mussman

#### SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-10	
35 ILCS 110/3-10	from Ch. 120, par. 439.33-10
35 ILCS 115/3-10	from Ch. 120, par. 439.103-10
35 ILCS 120/2-10	

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that the tax on durable medical equipment is imposed at the rate of 1% (currently, 6.25%).

LRB101 04950 HLH 49959 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Use Tax Act is amended by changing Section  
5 3-10 as follows:

6 (35 ILCS 105/3-10)

7 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
8 Section, the tax imposed by this Act is at the rate of 6.25% of  
9 either the selling price or the fair market value, if any, of  
10 the tangible personal property. In all cases where property  
11 functionally used or consumed is the same as the property that  
12 was purchased at retail, then the tax is imposed on the selling  
13 price of the property. In all cases where property functionally  
14 used or consumed is a by-product or waste product that has been  
15 refined, manufactured, or produced from property purchased at  
16 retail, then the tax is imposed on the lower of the fair market  
17 value, if any, of the specific property so used in this State  
18 or on the selling price of the property purchased at retail.  
19 For purposes of this Section "fair market value" means the  
20 price at which property would change hands between a willing  
21 buyer and a willing seller, neither being under any compulsion  
22 to buy or sell and both having reasonable knowledge of the  
23 relevant facts. The fair market value shall be established by

1 Illinois sales by the taxpayer of the same property as that  
2 functionally used or consumed, or if there are no such sales by  
3 the taxpayer, then comparable sales or purchases of property of  
4 like kind and character in Illinois.

5 Beginning on July 1, 2000 and through December 31, 2000,  
6 with respect to motor fuel, as defined in Section 1.1 of the  
7 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
8 the Use Tax Act, the tax is imposed at the rate of 1.25%.

9 Beginning on August 6, 2010 through August 15, 2010, with  
10 respect to sales tax holiday items as defined in Section 3-6 of  
11 this Act, the tax is imposed at the rate of 1.25%.

12 With respect to gasohol, the tax imposed by this Act  
13 applies to (i) 70% of the proceeds of sales made on or after  
14 January 1, 1990, and before July 1, 2003, (ii) 80% of the  
15 proceeds of sales made on or after July 1, 2003 and on or  
16 before July 1, 2017, and (iii) 100% of the proceeds of sales  
17 made thereafter. If, at any time, however, the tax under this  
18 Act on sales of gasohol is imposed at the rate of 1.25%, then  
19 the tax imposed by this Act applies to 100% of the proceeds of  
20 sales of gasohol made during that time.

21 With respect to majority blended ethanol fuel, the tax  
22 imposed by this Act does not apply to the proceeds of sales  
23 made on or after July 1, 2003 and on or before December 31,  
24 2023 but applies to 100% of the proceeds of sales made  
25 thereafter.

26 With respect to biodiesel blends with no less than 1% and

1 no more than 10% biodiesel, the tax imposed by this Act applies  
2 to (i) 80% of the proceeds of sales made on or after July 1,  
3 2003 and on or before December 31, 2018 and (ii) 100% of the  
4 proceeds of sales made thereafter. If, at any time, however,  
5 the tax under this Act on sales of biodiesel blends with no  
6 less than 1% and no more than 10% biodiesel is imposed at the  
7 rate of 1.25%, then the tax imposed by this Act applies to 100%  
8 of the proceeds of sales of biodiesel blends with no less than  
9 1% and no more than 10% biodiesel made during that time.

10 With respect to 100% biodiesel and biodiesel blends with  
11 more than 10% but no more than 99% biodiesel, the tax imposed  
12 by this Act does not apply to the proceeds of sales made on or  
13 after July 1, 2003 and on or before December 31, 2023 but  
14 applies to 100% of the proceeds of sales made thereafter.

15 With respect to food for human consumption that is to be  
16 consumed off the premises where it is sold (other than  
17 alcoholic beverages, soft drinks, and food that has been  
18 prepared for immediate consumption) and prescription and  
19 nonprescription medicines, drugs, medical appliances, durable  
20 medical equipment, products classified as Class III medical  
21 devices by the United States Food and Drug Administration that  
22 are used for cancer treatment pursuant to a prescription, as  
23 well as any accessories and components related to those  
24 devices, modifications to a motor vehicle for the purpose of  
25 rendering it usable by a person with a disability, and insulin,  
26 urine testing materials, syringes, and needles used by

1     diabetics, for human use, the tax is imposed at the rate of 1%.  
2     For the purposes of this Section, until September 1, 2009: the  
3     term "soft drinks" means any complete, finished, ready-to-use,  
4     non-alcoholic drink, whether carbonated or not, including but  
5     not limited to soda water, cola, fruit juice, vegetable juice,  
6     carbonated water, and all other preparations commonly known as  
7     soft drinks of whatever kind or description that are contained  
8     in any closed or sealed bottle, can, carton, or container,  
9     regardless of size; but "soft drinks" does not include coffee,  
10    tea, non-carbonated water, infant formula, milk or milk  
11    products as defined in the Grade A Pasteurized Milk and Milk  
12    Products Act, or drinks containing 50% or more natural fruit or  
13    vegetable juice.

14         As used in this Act, the term "durable medical equipment"  
15    includes, but is not limited to, hospital beds, lift beds, bath  
16    chairs, wheelchairs, canes, crutches, ventilators, bedside  
17    commodes, respirators, walkers, and apnea monitors.

18         Notwithstanding any other provisions of this Act,  
19    beginning September 1, 2009, "soft drinks" means non-alcoholic  
20    beverages that contain natural or artificial sweeteners. "Soft  
21    drinks" do not include beverages that contain milk or milk  
22    products, soy, rice or similar milk substitutes, or greater  
23    than 50% of vegetable or fruit juice by volume.

24         Until August 1, 2009, and notwithstanding any other  
25    provisions of this Act, "food for human consumption that is to  
26    be consumed off the premises where it is sold" includes all

1 food sold through a vending machine, except soft drinks and  
2 food products that are dispensed hot from a vending machine,  
3 regardless of the location of the vending machine. Beginning  
4 August 1, 2009, and notwithstanding any other provisions of  
5 this Act, "food for human consumption that is to be consumed  
6 off the premises where it is sold" includes all food sold  
7 through a vending machine, except soft drinks, candy, and food  
8 products that are dispensed hot from a vending machine,  
9 regardless of the location of the vending machine.

10 Notwithstanding any other provisions of this Act,  
11 beginning September 1, 2009, "food for human consumption that  
12 is to be consumed off the premises where it is sold" does not  
13 include candy. For purposes of this Section, "candy" means a  
14 preparation of sugar, honey, or other natural or artificial  
15 sweeteners in combination with chocolate, fruits, nuts or other  
16 ingredients or flavorings in the form of bars, drops, or  
17 pieces. "Candy" does not include any preparation that contains  
18 flour or requires refrigeration.

19 Notwithstanding any other provisions of this Act,  
20 beginning September 1, 2009, "nonprescription medicines and  
21 drugs" does not include grooming and hygiene products. For  
22 purposes of this Section, "grooming and hygiene products"  
23 includes, but is not limited to, soaps and cleaning solutions,  
24 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan  
25 lotions and screens, unless those products are available by  
26 prescription only, regardless of whether the products meet the

1 definition of "over-the-counter-drugs". For the purposes of  
2 this paragraph, "over-the-counter-drug" means a drug for human  
3 use that contains a label that identifies the product as a drug  
4 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"  
5 label includes:

6 (A) A "Drug Facts" panel; or

7 (B) A statement of the "active ingredient(s)" with a  
8 list of those ingredients contained in the compound,  
9 substance or preparation.

10 Beginning on the effective date of this amendatory Act of  
11 the 98th General Assembly, "prescription and nonprescription  
12 medicines and drugs" includes medical cannabis purchased from a  
13 registered dispensing organization under the Compassionate Use  
14 of Medical Cannabis Pilot Program Act.

15 If the property that is purchased at retail from a retailer  
16 is acquired outside Illinois and used outside Illinois before  
17 being brought to Illinois for use here and is taxable under  
18 this Act, the "selling price" on which the tax is computed  
19 shall be reduced by an amount that represents a reasonable  
20 allowance for depreciation for the period of prior out-of-state  
21 use.

22 (Source: P.A. 99-143, eff. 7-27-15; 99-858, eff. 8-19-16;  
23 100-22, eff. 7-6-17.)

24 Section 10. The Service Use Tax Act is amended by changing  
25 Section 3-10 as follows:

1 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

2 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
3 Section, the tax imposed by this Act is at the rate of 6.25% of  
4 the selling price of tangible personal property transferred as  
5 an incident to the sale of service, but, for the purpose of  
6 computing this tax, in no event shall the selling price be less  
7 than the cost price of the property to the serviceman.

8 Beginning on July 1, 2000 and through December 31, 2000,  
9 with respect to motor fuel, as defined in Section 1.1 of the  
10 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
11 the Use Tax Act, the tax is imposed at the rate of 1.25%.

12 With respect to gasohol, as defined in the Use Tax Act, the  
13 tax imposed by this Act applies to (i) 70% of the selling price  
14 of property transferred as an incident to the sale of service  
15 on or after January 1, 1990, and before July 1, 2003, (ii) 80%  
16 of the selling price of property transferred as an incident to  
17 the sale of service on or after July 1, 2003 and on or before  
18 July 1, 2017, and (iii) 100% of the selling price thereafter.  
19 If, at any time, however, the tax under this Act on sales of  
20 gasohol, as defined in the Use Tax Act, is imposed at the rate  
21 of 1.25%, then the tax imposed by this Act applies to 100% of  
22 the proceeds of sales of gasohol made during that time.

23 With respect to majority blended ethanol fuel, as defined  
24 in the Use Tax Act, the tax imposed by this Act does not apply  
25 to the selling price of property transferred as an incident to

1 the sale of service on or after July 1, 2003 and on or before  
2 December 31, 2023 but applies to 100% of the selling price  
3 thereafter.

4 With respect to biodiesel blends, as defined in the Use Tax  
5 Act, with no less than 1% and no more than 10% biodiesel, the  
6 tax imposed by this Act applies to (i) 80% of the selling price  
7 of property transferred as an incident to the sale of service  
8 on or after July 1, 2003 and on or before December 31, 2018 and  
9 (ii) 100% of the proceeds of the selling price thereafter. If,  
10 at any time, however, the tax under this Act on sales of  
11 biodiesel blends, as defined in the Use Tax Act, with no less  
12 than 1% and no more than 10% biodiesel is imposed at the rate  
13 of 1.25%, then the tax imposed by this Act applies to 100% of  
14 the proceeds of sales of biodiesel blends with no less than 1%  
15 and no more than 10% biodiesel made during that time.

16 With respect to 100% biodiesel, as defined in the Use Tax  
17 Act, and biodiesel blends, as defined in the Use Tax Act, with  
18 more than 10% but no more than 99% biodiesel, the tax imposed  
19 by this Act does not apply to the proceeds of the selling price  
20 of property transferred as an incident to the sale of service  
21 on or after July 1, 2003 and on or before December 31, 2023 but  
22 applies to 100% of the selling price thereafter.

23 At the election of any registered serviceman made for each  
24 fiscal year, sales of service in which the aggregate annual  
25 cost price of tangible personal property transferred as an  
26 incident to the sales of service is less than 35%, or 75% in

1 the case of servicemen transferring prescription drugs or  
2 servicemen engaged in graphic arts production, of the aggregate  
3 annual total gross receipts from all sales of service, the tax  
4 imposed by this Act shall be based on the serviceman's cost  
5 price of the tangible personal property transferred as an  
6 incident to the sale of those services.

7 The tax shall be imposed at the rate of 1% on food prepared  
8 for immediate consumption and transferred incident to a sale of  
9 service subject to this Act or the Service Occupation Tax Act  
10 by an entity licensed under the Hospital Licensing Act, the  
11 Nursing Home Care Act, the ID/DD Community Care Act, the MC/DD  
12 Act, the Specialized Mental Health Rehabilitation Act of 2013,  
13 or the Child Care Act of 1969. The tax shall also be imposed at  
14 the rate of 1% on food for human consumption that is to be  
15 consumed off the premises where it is sold (other than  
16 alcoholic beverages, soft drinks, and food that has been  
17 prepared for immediate consumption and is not otherwise  
18 included in this paragraph) and prescription and  
19 nonprescription medicines, drugs, medical appliances, durable  
20 medical equipment, products classified as Class III medical  
21 devices by the United States Food and Drug Administration that  
22 are used for cancer treatment pursuant to a prescription, as  
23 well as any accessories and components related to those  
24 devices, modifications to a motor vehicle for the purpose of  
25 rendering it usable by a person with a disability, and insulin,  
26 urine testing materials, syringes, and needles used by

1     diabetics, for human use. For the purposes of this Section,  
2     until September 1, 2009: the term "soft drinks" means any  
3     complete, finished, ready-to-use, non-alcoholic drink, whether  
4     carbonated or not, including but not limited to soda water,  
5     cola, fruit juice, vegetable juice, carbonated water, and all  
6     other preparations commonly known as soft drinks of whatever  
7     kind or description that are contained in any closed or sealed  
8     bottle, can, carton, or container, regardless of size; but  
9     "soft drinks" does not include coffee, tea, non-carbonated  
10    water, infant formula, milk or milk products as defined in the  
11    Grade A Pasteurized Milk and Milk Products Act, or drinks  
12    containing 50% or more natural fruit or vegetable juice.

13         Notwithstanding any other provisions of this Act,  
14    beginning September 1, 2009, "soft drinks" means non-alcoholic  
15    beverages that contain natural or artificial sweeteners. "Soft  
16    drinks" do not include beverages that contain milk or milk  
17    products, soy, rice or similar milk substitutes, or greater  
18    than 50% of vegetable or fruit juice by volume.

19         As used in this Act, the term "durable medical equipment"  
20    includes, but is not limited to, hospital beds, lift beds, bath  
21    chairs, wheelchairs, canes, crutches, ventilators, bedside  
22    commodes, respirators, walkers, and apnea monitors.

23         Until August 1, 2009, and notwithstanding any other  
24    provisions of this Act, "food for human consumption that is to  
25    be consumed off the premises where it is sold" includes all  
26    food sold through a vending machine, except soft drinks and

1 food products that are dispensed hot from a vending machine,  
2 regardless of the location of the vending machine. Beginning  
3 August 1, 2009, and notwithstanding any other provisions of  
4 this Act, "food for human consumption that is to be consumed  
5 off the premises where it is sold" includes all food sold  
6 through a vending machine, except soft drinks, candy, and food  
7 products that are dispensed hot from a vending machine,  
8 regardless of the location of the vending machine.

9 Notwithstanding any other provisions of this Act,  
10 beginning September 1, 2009, "food for human consumption that  
11 is to be consumed off the premises where it is sold" does not  
12 include candy. For purposes of this Section, "candy" means a  
13 preparation of sugar, honey, or other natural or artificial  
14 sweeteners in combination with chocolate, fruits, nuts or other  
15 ingredients or flavorings in the form of bars, drops, or  
16 pieces. "Candy" does not include any preparation that contains  
17 flour or requires refrigeration.

18 Notwithstanding any other provisions of this Act,  
19 beginning September 1, 2009, "nonprescription medicines and  
20 drugs" does not include grooming and hygiene products. For  
21 purposes of this Section, "grooming and hygiene products"  
22 includes, but is not limited to, soaps and cleaning solutions,  
23 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan  
24 lotions and screens, unless those products are available by  
25 prescription only, regardless of whether the products meet the  
26 definition of "over-the-counter-drugs". For the purposes of

1 this paragraph, "over-the-counter-drug" means a drug for human  
2 use that contains a label that identifies the product as a drug  
3 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"  
4 label includes:

5 (A) A "Drug Facts" panel; or

6 (B) A statement of the "active ingredient(s)" with a  
7 list of those ingredients contained in the compound,  
8 substance or preparation.

9 Beginning on January 1, 2014 (the effective date of Public  
10 Act 98-122), "prescription and nonprescription medicines and  
11 drugs" includes medical cannabis purchased from a registered  
12 dispensing organization under the Compassionate Use of Medical  
13 Cannabis Pilot Program Act.

14 If the property that is acquired from a serviceman is  
15 acquired outside Illinois and used outside Illinois before  
16 being brought to Illinois for use here and is taxable under  
17 this Act, the "selling price" on which the tax is computed  
18 shall be reduced by an amount that represents a reasonable  
19 allowance for depreciation for the period of prior out-of-state  
20 use.

21 (Source: P.A. 99-143, eff. 7-27-15; 99-180, eff. 7-29-15;  
22 99-642, eff. 7-28-16; 99-858, eff. 8-19-16; 100-22, eff.  
23 7-6-17.)

24 Section 15. The Service Occupation Tax Act is amended by  
25 changing Section 3-10 as follows:

1 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

2 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
3 Section, the tax imposed by this Act is at the rate of 6.25% of  
4 the "selling price", as defined in Section 2 of the Service Use  
5 Tax Act, of the tangible personal property. For the purpose of  
6 computing this tax, in no event shall the "selling price" be  
7 less than the cost price to the serviceman of the tangible  
8 personal property transferred. The selling price of each item  
9 of tangible personal property transferred as an incident of a  
10 sale of service may be shown as a distinct and separate item on  
11 the serviceman's billing to the service customer. If the  
12 selling price is not so shown, the selling price of the  
13 tangible personal property is deemed to be 50% of the  
14 serviceman's entire billing to the service customer. When,  
15 however, a serviceman contracts to design, develop, and produce  
16 special order machinery or equipment, the tax imposed by this  
17 Act shall be based on the serviceman's cost price of the  
18 tangible personal property transferred incident to the  
19 completion of the contract.

20 Beginning on July 1, 2000 and through December 31, 2000,  
21 with respect to motor fuel, as defined in Section 1.1 of the  
22 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
23 the Use Tax Act, the tax is imposed at the rate of 1.25%.

24 With respect to gasohol, as defined in the Use Tax Act, the  
25 tax imposed by this Act shall apply to (i) 70% of the cost

1 price of property transferred as an incident to the sale of  
2 service on or after January 1, 1990, and before July 1, 2003,  
3 (ii) 80% of the selling price of property transferred as an  
4 incident to the sale of service on or after July 1, 2003 and on  
5 or before July 1, 2017, and (iii) 100% of the cost price  
6 thereafter. If, at any time, however, the tax under this Act on  
7 sales of gasohol, as defined in the Use Tax Act, is imposed at  
8 the rate of 1.25%, then the tax imposed by this Act applies to  
9 100% of the proceeds of sales of gasohol made during that time.

10 With respect to majority blended ethanol fuel, as defined  
11 in the Use Tax Act, the tax imposed by this Act does not apply  
12 to the selling price of property transferred as an incident to  
13 the sale of service on or after July 1, 2003 and on or before  
14 December 31, 2023 but applies to 100% of the selling price  
15 thereafter.

16 With respect to biodiesel blends, as defined in the Use Tax  
17 Act, with no less than 1% and no more than 10% biodiesel, the  
18 tax imposed by this Act applies to (i) 80% of the selling price  
19 of property transferred as an incident to the sale of service  
20 on or after July 1, 2003 and on or before December 31, 2018 and  
21 (ii) 100% of the proceeds of the selling price thereafter. If,  
22 at any time, however, the tax under this Act on sales of  
23 biodiesel blends, as defined in the Use Tax Act, with no less  
24 than 1% and no more than 10% biodiesel is imposed at the rate  
25 of 1.25%, then the tax imposed by this Act applies to 100% of  
26 the proceeds of sales of biodiesel blends with no less than 1%

1 and no more than 10% biodiesel made during that time.

2 With respect to 100% biodiesel, as defined in the Use Tax  
3 Act, and biodiesel blends, as defined in the Use Tax Act, with  
4 more than 10% but no more than 99% biodiesel material, the tax  
5 imposed by this Act does not apply to the proceeds of the  
6 selling price of property transferred as an incident to the  
7 sale of service on or after July 1, 2003 and on or before  
8 December 31, 2023 but applies to 100% of the selling price  
9 thereafter.

10 At the election of any registered serviceman made for each  
11 fiscal year, sales of service in which the aggregate annual  
12 cost price of tangible personal property transferred as an  
13 incident to the sales of service is less than 35%, or 75% in  
14 the case of servicemen transferring prescription drugs or  
15 servicemen engaged in graphic arts production, of the aggregate  
16 annual total gross receipts from all sales of service, the tax  
17 imposed by this Act shall be based on the serviceman's cost  
18 price of the tangible personal property transferred incident to  
19 the sale of those services.

20 The tax shall be imposed at the rate of 1% on food prepared  
21 for immediate consumption and transferred incident to a sale of  
22 service subject to this Act or the Service Occupation Tax Act  
23 by an entity licensed under the Hospital Licensing Act, the  
24 Nursing Home Care Act, the ID/DD Community Care Act, the MC/DD  
25 Act, the Specialized Mental Health Rehabilitation Act of 2013,  
26 or the Child Care Act of 1969. The tax shall also be imposed at

1 the rate of 1% on food for human consumption that is to be  
2 consumed off the premises where it is sold (other than  
3 alcoholic beverages, soft drinks, and food that has been  
4 prepared for immediate consumption and is not otherwise  
5 included in this paragraph) and prescription and  
6 nonprescription medicines, drugs, medical appliances, durable  
7 medical equipment, products classified as Class III medical  
8 devices by the United States Food and Drug Administration that  
9 are used for cancer treatment pursuant to a prescription, as  
10 well as any accessories and components related to those  
11 devices, modifications to a motor vehicle for the purpose of  
12 rendering it usable by a person with a disability, and insulin,  
13 urine testing materials, syringes, and needles used by  
14 diabetics, for human use. For the purposes of this Section,  
15 until September 1, 2009: the term "soft drinks" means any  
16 complete, finished, ready-to-use, non-alcoholic drink, whether  
17 carbonated or not, including but not limited to soda water,  
18 cola, fruit juice, vegetable juice, carbonated water, and all  
19 other preparations commonly known as soft drinks of whatever  
20 kind or description that are contained in any closed or sealed  
21 can, carton, or container, regardless of size; but "soft  
22 drinks" does not include coffee, tea, non-carbonated water,  
23 infant formula, milk or milk products as defined in the Grade A  
24 Pasteurized Milk and Milk Products Act, or drinks containing  
25 50% or more natural fruit or vegetable juice.

26 Notwithstanding any other provisions of this Act,

1 beginning September 1, 2009, "soft drinks" means non-alcoholic  
2 beverages that contain natural or artificial sweeteners. "Soft  
3 drinks" do not include beverages that contain milk or milk  
4 products, soy, rice or similar milk substitutes, or greater  
5 than 50% of vegetable or fruit juice by volume.

6 As used in this Act, the term "durable medical equipment"  
7 includes, but is not limited to, hospital beds, lift beds, bath  
8 chairs, wheelchairs, canes, crutches, ventilators, bedside  
9 commodes, respirators, walkers, and apnea monitors.

10 Until August 1, 2009, and notwithstanding any other  
11 provisions of this Act, "food for human consumption that is to  
12 be consumed off the premises where it is sold" includes all  
13 food sold through a vending machine, except soft drinks and  
14 food products that are dispensed hot from a vending machine,  
15 regardless of the location of the vending machine. Beginning  
16 August 1, 2009, and notwithstanding any other provisions of  
17 this Act, "food for human consumption that is to be consumed  
18 off the premises where it is sold" includes all food sold  
19 through a vending machine, except soft drinks, candy, and food  
20 products that are dispensed hot from a vending machine,  
21 regardless of the location of the vending machine.

22 Notwithstanding any other provisions of this Act,  
23 beginning September 1, 2009, "food for human consumption that  
24 is to be consumed off the premises where it is sold" does not  
25 include candy. For purposes of this Section, "candy" means a  
26 preparation of sugar, honey, or other natural or artificial

1 sweeteners in combination with chocolate, fruits, nuts or other  
2 ingredients or flavorings in the form of bars, drops, or  
3 pieces. "Candy" does not include any preparation that contains  
4 flour or requires refrigeration.

5 Notwithstanding any other provisions of this Act,  
6 beginning September 1, 2009, "nonprescription medicines and  
7 drugs" does not include grooming and hygiene products. For  
8 purposes of this Section, "grooming and hygiene products"  
9 includes, but is not limited to, soaps and cleaning solutions,  
10 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan  
11 lotions and screens, unless those products are available by  
12 prescription only, regardless of whether the products meet the  
13 definition of "over-the-counter-drugs". For the purposes of  
14 this paragraph, "over-the-counter-drug" means a drug for human  
15 use that contains a label that identifies the product as a drug  
16 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"  
17 label includes:

18 (A) A "Drug Facts" panel; or

19 (B) A statement of the "active ingredient(s)" with a  
20 list of those ingredients contained in the compound,  
21 substance or preparation.

22 Beginning on January 1, 2014 (the effective date of Public  
23 Act 98-122), "prescription and nonprescription medicines and  
24 drugs" includes medical cannabis purchased from a registered  
25 dispensing organization under the Compassionate Use of Medical  
26 Cannabis Pilot Program Act.

1 (Source: P.A. 99-143, eff. 7-27-15; 99-180, eff. 7-29-15;  
2 99-642, eff. 7-28-16; 99-858, eff. 8-19-16; 100-22, eff.  
3 7-6-17.)

4 Section 20. The Retailers' Occupation Tax Act is amended by  
5 changing Section 2-10 as follows:

6 (35 ILCS 120/2-10)

7 Sec. 2-10. Rate of tax. Unless otherwise provided in this  
8 Section, the tax imposed by this Act is at the rate of 6.25% of  
9 gross receipts from sales of tangible personal property made in  
10 the course of business.

11 Beginning on July 1, 2000 and through December 31, 2000,  
12 with respect to motor fuel, as defined in Section 1.1 of the  
13 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
14 the Use Tax Act, the tax is imposed at the rate of 1.25%.

15 Beginning on August 6, 2010 through August 15, 2010, with  
16 respect to sales tax holiday items as defined in Section 2-8 of  
17 this Act, the tax is imposed at the rate of 1.25%.

18 Within 14 days after the effective date of this amendatory  
19 Act of the 91st General Assembly, each retailer of motor fuel  
20 and gasohol shall cause the following notice to be posted in a  
21 prominently visible place on each retail dispensing device that  
22 is used to dispense motor fuel or gasohol in the State of  
23 Illinois: "As of July 1, 2000, the State of Illinois has  
24 eliminated the State's share of sales tax on motor fuel and

1 gasohol through December 31, 2000. The price on this pump  
2 should reflect the elimination of the tax." The notice shall be  
3 printed in bold print on a sign that is no smaller than 4  
4 inches by 8 inches. The sign shall be clearly visible to  
5 customers. Any retailer who fails to post or maintain a  
6 required sign through December 31, 2000 is guilty of a petty  
7 offense for which the fine shall be \$500 per day per each  
8 retail premises where a violation occurs.

9 With respect to gasohol, as defined in the Use Tax Act, the  
10 tax imposed by this Act applies to (i) 70% of the proceeds of  
11 sales made on or after January 1, 1990, and before July 1,  
12 2003, (ii) 80% of the proceeds of sales made on or after July  
13 1, 2003 and on or before July 1, 2017, and (iii) 100% of the  
14 proceeds of sales made thereafter. If, at any time, however,  
15 the tax under this Act on sales of gasohol, as defined in the  
16 Use Tax Act, is imposed at the rate of 1.25%, then the tax  
17 imposed by this Act applies to 100% of the proceeds of sales of  
18 gasohol made during that time.

19 With respect to majority blended ethanol fuel, as defined  
20 in the Use Tax Act, the tax imposed by this Act does not apply  
21 to the proceeds of sales made on or after July 1, 2003 and on or  
22 before December 31, 2023 but applies to 100% of the proceeds of  
23 sales made thereafter.

24 With respect to biodiesel blends, as defined in the Use Tax  
25 Act, with no less than 1% and no more than 10% biodiesel, the  
26 tax imposed by this Act applies to (i) 80% of the proceeds of

1 sales made on or after July 1, 2003 and on or before December  
2 31, 2018 and (ii) 100% of the proceeds of sales made  
3 thereafter. If, at any time, however, the tax under this Act on  
4 sales of biodiesel blends, as defined in the Use Tax Act, with  
5 no less than 1% and no more than 10% biodiesel is imposed at  
6 the rate of 1.25%, then the tax imposed by this Act applies to  
7 100% of the proceeds of sales of biodiesel blends with no less  
8 than 1% and no more than 10% biodiesel made during that time.

9 With respect to 100% biodiesel, as defined in the Use Tax  
10 Act, and biodiesel blends, as defined in the Use Tax Act, with  
11 more than 10% but no more than 99% biodiesel, the tax imposed  
12 by this Act does not apply to the proceeds of sales made on or  
13 after July 1, 2003 and on or before December 31, 2023 but  
14 applies to 100% of the proceeds of sales made thereafter.

15 With respect to food for human consumption that is to be  
16 consumed off the premises where it is sold (other than  
17 alcoholic beverages, soft drinks, and food that has been  
18 prepared for immediate consumption) and prescription and  
19 nonprescription medicines, drugs, medical appliances, durable  
20 medical equipment, products classified as Class III medical  
21 devices by the United States Food and Drug Administration that  
22 are used for cancer treatment pursuant to a prescription, as  
23 well as any accessories and components related to those  
24 devices, modifications to a motor vehicle for the purpose of  
25 rendering it usable by a person with a disability, and insulin,  
26 urine testing materials, syringes, and needles used by

1     diabetics, for human use, the tax is imposed at the rate of 1%.  
2     For the purposes of this Section, until September 1, 2009: the  
3     term "soft drinks" means any complete, finished, ready-to-use,  
4     non-alcoholic drink, whether carbonated or not, including but  
5     not limited to soda water, cola, fruit juice, vegetable juice,  
6     carbonated water, and all other preparations commonly known as  
7     soft drinks of whatever kind or description that are contained  
8     in any closed or sealed bottle, can, carton, or container,  
9     regardless of size; but "soft drinks" does not include coffee,  
10    tea, non-carbonated water, infant formula, milk or milk  
11    products as defined in the Grade A Pasteurized Milk and Milk  
12    Products Act, or drinks containing 50% or more natural fruit or  
13    vegetable juice.

14         Notwithstanding any other provisions of this Act,  
15    beginning September 1, 2009, "soft drinks" means non-alcoholic  
16    beverages that contain natural or artificial sweeteners. "Soft  
17    drinks" do not include beverages that contain milk or milk  
18    products, soy, rice or similar milk substitutes, or greater  
19    than 50% of vegetable or fruit juice by volume.

20         As used in this Act, the term "durable medical equipment"  
21    includes, but is not limited to, hospital beds, lift beds, bath  
22    chairs, wheelchairs, canes, crutches, ventilators, bedside  
23    commodes, respirators, walkers, and apnea monitors.

24         Until August 1, 2009, and notwithstanding any other  
25    provisions of this Act, "food for human consumption that is to  
26    be consumed off the premises where it is sold" includes all

1 food sold through a vending machine, except soft drinks and  
2 food products that are dispensed hot from a vending machine,  
3 regardless of the location of the vending machine. Beginning  
4 August 1, 2009, and notwithstanding any other provisions of  
5 this Act, "food for human consumption that is to be consumed  
6 off the premises where it is sold" includes all food sold  
7 through a vending machine, except soft drinks, candy, and food  
8 products that are dispensed hot from a vending machine,  
9 regardless of the location of the vending machine.

10 Notwithstanding any other provisions of this Act,  
11 beginning September 1, 2009, "food for human consumption that  
12 is to be consumed off the premises where it is sold" does not  
13 include candy. For purposes of this Section, "candy" means a  
14 preparation of sugar, honey, or other natural or artificial  
15 sweeteners in combination with chocolate, fruits, nuts or other  
16 ingredients or flavorings in the form of bars, drops, or  
17 pieces. "Candy" does not include any preparation that contains  
18 flour or requires refrigeration.

19 Notwithstanding any other provisions of this Act,  
20 beginning September 1, 2009, "nonprescription medicines and  
21 drugs" does not include grooming and hygiene products. For  
22 purposes of this Section, "grooming and hygiene products"  
23 includes, but is not limited to, soaps and cleaning solutions,  
24 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan  
25 lotions and screens, unless those products are available by  
26 prescription only, regardless of whether the products meet the

1 definition of "over-the-counter-drugs". For the purposes of  
2 this paragraph, "over-the-counter-drug" means a drug for human  
3 use that contains a label that identifies the product as a drug  
4 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"  
5 label includes:

6 (A) A "Drug Facts" panel; or

7 (B) A statement of the "active ingredient(s)" with a  
8 list of those ingredients contained in the compound,  
9 substance or preparation.

10 Beginning on the effective date of this amendatory Act of  
11 the 98th General Assembly, "prescription and nonprescription  
12 medicines and drugs" includes medical cannabis purchased from a  
13 registered dispensing organization under the Compassionate Use  
14 of Medical Cannabis Pilot Program Act.

15 (Source: P.A. 99-143, eff. 7-27-15; 99-858, eff. 8-19-16;  
16 100-22, eff. 7-6-17.)