



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB3568

by Rep. Melissa Conyears-Ervin

#### 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 Retailers' Occupation Tax Act. Provides that internal (also known as female) and male condoms, incontinence products, diapers, and baby wipes shall be taxed by the State at a rate of 1% (currently, 6.25%). Provides that the net revenue from the 1% tax collected from the sale of those products shall be deposited into the State and Local Sales Tax Reform Fund. Amends the Use Tax, Service Occupation Tax, and Service Occupation Use Tax Acts to make conforming changes.

LRB101 08687 HLH 53772 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 Sections  
5 3-5.5, 3-10, and 9 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, internal  
20 (also known as female) and male condoms, incontinence products,  
21 diapers, baby wipes, products classified as Class III medical  
22 devices by the United States Food and Drug Administration that  
23 are used for cancer treatment pursuant to a prescription, as  
24 well as any accessories and components related to those  
25 devices, modifications to a motor vehicle for the purpose of  
26 rendering it usable by a person with a disability, and insulin,

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

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

21 Until August 1, 2009, and notwithstanding any other  
22 provisions of this Act, "food for human consumption that is to  
23 be consumed off the premises where it is sold" includes all  
24 food sold through a vending machine, except soft drinks and  
25 food products that are dispensed hot from a vending machine,  
26 regardless of the location of the vending machine. Beginning

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

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

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

1 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"  
2 label includes:

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

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

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

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

19 (Source: P.A. 99-143, eff. 7-27-15; 99-858, eff. 8-19-16;  
20 100-22, eff. 7-6-17.)

21 Section 10. The Service Use Tax Act is amended by changing  
22 Sections 3-5.5, 3-10, and 9 as follows:

23 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

24 Sec. 3-10. Rate of tax. Unless otherwise provided in this

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

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

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

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



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

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

20           At the election of any registered serviceman made for each  
21 fiscal year, sales of service in which the aggregate annual  
22 cost price of tangible personal property transferred as an  
23 incident to the sales of service is less than 35%, or 75% in  
24 the case of servicemen transferring prescription drugs or  
25 servicemen engaged in graphic arts production, of the aggregate  
26 annual total gross receipts from all sales of service, the tax

1 imposed by this Act shall be based on the serviceman's cost  
2 price of the tangible personal property transferred as an  
3 incident to the sale of those services.

4 The tax shall be imposed at the rate of 1% on food prepared  
5 for immediate consumption and transferred incident to a sale of  
6 service subject to this Act or the Service Occupation Tax Act  
7 by an entity licensed under the Hospital Licensing Act, the  
8 Nursing Home Care Act, the ID/DD Community Care Act, the MC/DD  
9 Act, the Specialized Mental Health Rehabilitation Act of 2013,  
10 or the Child Care Act of 1969. The tax shall also be imposed at  
11 the rate of 1% on food for human consumption that is to be  
12 consumed off the premises where it is sold (other than  
13 alcoholic beverages, soft drinks, and food that has been  
14 prepared for immediate consumption and is not otherwise  
15 included in this paragraph) internal (also known as female) and  
16 male condoms, incontinence products, diapers, baby wipes, and  
17 prescription and nonprescription medicines, drugs, medical  
18 appliances, products classified as Class III medical devices by  
19 the United States Food and Drug Administration that are used  
20 for cancer treatment pursuant to a prescription, as well as any  
21 accessories and components related to those devices,  
22 modifications to a motor vehicle for the purpose of rendering  
23 it usable by a person with a disability, and insulin, urine  
24 testing materials, syringes, and needles used by diabetics, for  
25 human use. For the purposes of this Section, until September 1,  
26 2009: the term "soft drinks" means any complete, finished,

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

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

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

1 products that are dispensed hot from a vending machine,  
2 regardless of the location of the vending machine.

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

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

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

26 (B) A statement of the "active ingredient(s)" with a

1 list of those ingredients contained in the compound,  
2 substance or preparation.

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

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

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

18 Section 15. The Service Occupation Tax Act is amended by  
19 changing Sections 3-5.5, 3-10, and 9 as follows:

20 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

21 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
22 Section, the tax imposed by this Act is at the rate of 6.25% of  
23 the "selling price", as defined in Section 2 of the Service Use  
24 Tax Act, of the tangible personal property. For the purpose of

1 computing this tax, in no event shall the "selling price" be  
2 less than the cost price to the serviceman of the tangible  
3 personal property transferred. The selling price of each item  
4 of tangible personal property transferred as an incident of a  
5 sale of service may be shown as a distinct and separate item on  
6 the serviceman's billing to the service customer. If the  
7 selling price is not so shown, the selling price of the  
8 tangible personal property is deemed to be 50% of the  
9 serviceman's entire billing to the service customer. When,  
10 however, a serviceman contracts to design, develop, and produce  
11 special order machinery or equipment, the tax imposed by this  
12 Act shall be based on the serviceman's cost price of the  
13 tangible personal property transferred incident to the  
14 completion of the contract.

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

19 With respect to gasohol, as defined in the Use Tax Act, the  
20 tax imposed by this Act shall apply to (i) 70% of the cost  
21 price of property transferred as an incident to the sale of  
22 service on or after January 1, 1990, and before July 1, 2003,  
23 (ii) 80% of the selling price of property transferred as an  
24 incident to the sale of service on or after July 1, 2003 and on  
25 or before July 1, 2017, and (iii) 100% of the cost price  
26 thereafter. If, at any time, however, the tax under this Act on

1 sales of gasohol, as defined in the Use Tax Act, is imposed at  
2 the rate of 1.25%, then the tax imposed by this Act applies to  
3 100% of the proceeds of sales of gasohol made during that time.

4 With respect to majority blended ethanol fuel, as defined  
5 in the Use Tax Act, the tax imposed by this Act does not apply  
6 to the selling price of property transferred as an incident to  
7 the 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 With respect to biodiesel blends, as defined in the Use Tax  
11 Act, with no less than 1% and no more than 10% biodiesel, the  
12 tax imposed by this Act applies to (i) 80% of the selling price  
13 of property transferred as an incident to the sale of service  
14 on or after July 1, 2003 and on or before December 31, 2018 and  
15 (ii) 100% of the proceeds of the selling price thereafter. If,  
16 at any time, however, the tax under this Act on sales of  
17 biodiesel blends, as defined in the Use Tax Act, with no less  
18 than 1% and no more than 10% biodiesel is imposed at the rate  
19 of 1.25%, then the tax imposed by this Act applies to 100% of  
20 the proceeds of sales of biodiesel blends with no less than 1%  
21 and no more than 10% biodiesel made during that time.

22 With respect to 100% biodiesel, as defined in the Use Tax  
23 Act, and biodiesel blends, as defined in the Use Tax Act, with  
24 more than 10% but no more than 99% biodiesel material, the tax  
25 imposed by this Act does not apply to the proceeds of the  
26 selling price of property transferred as an incident to the

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

14 The tax shall be imposed at the rate of 1% on food prepared  
15 for immediate consumption and transferred incident to a sale of  
16 service subject to this Act or the Service Occupation Tax Act  
17 by an entity licensed under the Hospital Licensing Act, the  
18 Nursing Home Care Act, the ID/DD Community Care Act, the MC/DD  
19 Act, the Specialized Mental Health Rehabilitation Act of 2013,  
20 or the Child Care Act of 1969. The tax shall also be imposed at  
21 the rate of 1% on food for human consumption that is to be  
22 consumed off the premises where it is sold (other than  
23 alcoholic beverages, soft drinks, and food that has been  
24 prepared for immediate consumption and is not otherwise  
25 included in this paragraph) internal (also known as female) and  
26 male condoms, incontinence products, diapers, baby wipes, and



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

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

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

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

22           Notwithstanding any other provisions of this Act,  
23 beginning September 1, 2009, "nonprescription medicines and  
24 drugs" does not include grooming and hygiene products. For  
25 purposes of this Section, "grooming and hygiene products"  
26 includes, but is not limited to, soaps and cleaning solutions,

1 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan  
2 lotions and screens, unless those products are available by  
3 prescription only, regardless of whether the products meet the  
4 definition of "over-the-counter-drugs". For the purposes of  
5 this paragraph, "over-the-counter-drug" means a drug for human  
6 use that contains a label that identifies the product as a drug  
7 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"  
8 label includes:

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

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

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

18 (Source: P.A. 99-143, eff. 7-27-15; 99-180, eff. 7-29-15;  
19 99-642, eff. 7-28-16; 99-858, eff. 8-19-16; 100-22, eff.  
20 7-6-17.)

21 Section 20. The Retailers' Occupation Tax Act is amended by  
22 changing Sections 2-5.5, 2-10, and 3 as follows:

23 (35 ILCS 120/2-10)

24 Sec. 2-10. Rate of tax. Unless otherwise provided in this

1 Section, the tax imposed by this Act is at the rate of 6.25% of  
2 gross receipts from sales of tangible personal property made in  
3 the course of business.

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

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

11 Within 14 days after the effective date of this amendatory  
12 Act of the 91st General Assembly, each retailer of motor fuel  
13 and gasohol shall cause the following notice to be posted in a  
14 prominently visible place on each retail dispensing device that  
15 is used to dispense motor fuel or gasohol in the State of  
16 Illinois: "As of July 1, 2000, the State of Illinois has  
17 eliminated the State's share of sales tax on motor fuel and  
18 gasohol through December 31, 2000. The price on this pump  
19 should reflect the elimination of the tax." The notice shall be  
20 printed in bold print on a sign that is no smaller than 4  
21 inches by 8 inches. The sign shall be clearly visible to  
22 customers. Any retailer who fails to post or maintain a  
23 required sign through December 31, 2000 is guilty of a petty  
24 offense for which the fine shall be \$500 per day per each  
25 retail premises where a violation occurs.

26 With respect to gasohol, as defined in the Use Tax Act, the

1 tax imposed by this Act applies to (i) 70% of the proceeds of  
2 sales made on or after January 1, 1990, and before July 1,  
3 2003, (ii) 80% of the proceeds of sales made on or after July  
4 1, 2003 and on or before July 1, 2017, and (iii) 100% of the  
5 proceeds of sales made thereafter. If, at any time, however,  
6 the tax under this Act on sales of gasohol, as defined in the  
7 Use Tax Act, is imposed at the rate of 1.25%, then the tax  
8 imposed by this Act applies to 100% of the proceeds of sales of  
9 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 proceeds of sales made on or after July 1, 2003 and on or  
13 before December 31, 2023 but applies to 100% of the proceeds of  
14 sales made thereafter.

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

26 With respect to 100% biodiesel, as defined in the Use Tax

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

6 With respect to food for human consumption that is to be  
7 consumed off the premises where it is sold (other than  
8 alcoholic beverages, soft drinks, and food that has been  
9 prepared for immediate consumption) and prescription and  
10 nonprescription medicines, drugs, medical appliances, internal  
11 (also known as female) and male condoms, incontinence products,  
12 diapers, baby wipes, products classified as Class III medical  
13 devices by the United States Food and Drug Administration that  
14 are used for cancer treatment pursuant to a prescription, as  
15 well as any accessories and components related to those  
16 devices, modifications to a motor vehicle for the purpose of  
17 rendering it usable by a person with a disability, and insulin,  
18 urine testing materials, syringes, and needles used by  
19 diabetics, for human use, the tax is imposed at the rate of 1%.  
20 For the purposes of this Section, until September 1, 2009: the  
21 term "soft drinks" means any complete, finished, ready-to-use,  
22 non-alcoholic drink, whether carbonated or not, including but  
23 not limited to soda water, cola, fruit juice, vegetable juice,  
24 carbonated water, and all other preparations commonly known as  
25 soft drinks of whatever kind or description that are contained  
26 in any closed or sealed bottle, can, carton, or container,

1 regardless of size; but "soft drinks" does not include coffee,  
2 tea, non-carbonated water, infant formula, milk or milk  
3 products as defined in the Grade A Pasteurized Milk and Milk  
4 Products Act, or drinks containing 50% or more natural fruit or  
5 vegetable juice.

6 Notwithstanding any other provisions of this Act,  
7 beginning September 1, 2009, "soft drinks" means non-alcoholic  
8 beverages that contain natural or artificial sweeteners. "Soft  
9 drinks" do not include beverages that contain milk or milk  
10 products, soy, rice or similar milk substitutes, or greater  
11 than 50% of vegetable or fruit juice by volume.

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

24 Notwithstanding any other provisions of this Act,  
25 beginning September 1, 2009, "food for human consumption that  
26 is to be consumed off the premises where it is sold" does not

1 include candy. For purposes of this Section, "candy" means a  
2 preparation of sugar, honey, or other natural or artificial  
3 sweeteners in combination with chocolate, fruits, nuts or other  
4 ingredients or flavorings in the form of bars, drops, or  
5 pieces. "Candy" does not include any preparation that contains  
6 flour or requires refrigeration.

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

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

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

24 Beginning on the effective date of this amendatory Act of  
25 the 98th General Assembly, "prescription and nonprescription  
26 medicines and drugs" includes medical cannabis purchased from a



1 registered dispensing organization under the Compassionate Use  
2 of Medical Cannabis Pilot Program Act.

3 (Source: P.A. 99-143, eff. 7-27-15; 99-858, eff. 8-19-16;  
4 100-22, eff. 7-6-17.)

5 Section 95. No acceleration or delay. Where this Act makes  
6 changes in a statute that is represented in this Act by text  
7 that is not yet or no longer in effect (for example, a Section  
8 represented by multiple versions), the use of that text does  
9 not accelerate or delay the taking effect of (i) the changes  
10 made by this Act or (ii) provisions derived from any other  
11 Public Act.