



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2883

Introduced 2/14/2018, by Sen. Bill Cunningham

SYNOPSIS AS INTRODUCED:

| | |
|------------------------|-------------------------------|
| 35 ILCS 105/3-10 | |
| 35 ILCS 105/3-40 | from Ch. 120, par. 439.3-40 |
| 35 ILCS 105/3-44 | |
| 35 ILCS 105/3-44.3 new | |
| 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, on or after July 1, 2018 and on or before December 31, 2019, the taxes imposed under the Acts apply to 80% of the proceeds of sales of mid-range ethanol blends. Defines mid-range ethanol blend. Effective immediately.

LRB100 20442 HLH 35787 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 3-10, 3-40, and 3-44 and by adding Section 3-44.3 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 mid-range ethanol blends, the tax imposed
22 by this Act applies to (i) 80% of the proceeds of sales made on
23 or after July 1, 2018 and on or before December 31, 2019 and
24 (ii) 100% of the proceeds of sales made thereafter. If, at any
25 time, however, the tax under this Act on sales of mid-range
26 ethanol blends is imposed at the rate of 1.25%, then the tax

1 imposed by this Act applies to 100% of the proceeds of sales of
2 mid-range ethanol blends made during that time.

3 With respect to majority blended ethanol fuel, the tax
4 imposed by this Act does not apply to the proceeds of sales
5 made on or after July 1, 2003 and on or before December 31,
6 2023 but applies to 100% of the proceeds of sales made
7 thereafter.

8 With respect to biodiesel blends with no less than 1% and
9 no more than 10% biodiesel, the tax imposed by this Act applies
10 to (i) 80% of the proceeds of sales made on or after July 1,
11 2003 and on or before December 31, 2018 and (ii) 100% of the
12 proceeds of sales made thereafter. If, at any time, however,
13 the tax under this Act on sales of biodiesel blends with no
14 less than 1% and no more than 10% biodiesel is imposed at the
15 rate of 1.25%, then the tax imposed by this Act applies to 100%
16 of the proceeds of sales of biodiesel blends with no less than
17 1% and no more than 10% biodiesel made during that time.

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

23 With respect to food for human consumption that is to be
24 consumed off the premises where it is sold (other than
25 alcoholic beverages, soft drinks, and food that has been
26 prepared for immediate consumption) and prescription and

1 nonprescription medicines, drugs, medical appliances, products
2 classified as Class III medical devices by the United States
3 Food and Drug Administration that are used for cancer treatment
4 pursuant to a prescription, as well as any accessories and
5 components related to those devices, modifications to a motor
6 vehicle for the purpose of rendering it usable by a person with
7 a disability, and insulin, urine testing materials, syringes,
8 and needles used by diabetics, for human use, the tax is
9 imposed at the rate of 1%. For the purposes of this Section,
10 until September 1, 2009: the term "soft drinks" means any
11 complete, finished, ready-to-use, non-alcoholic drink, whether
12 carbonated or not, including but not limited to soda water,
13 cola, fruit juice, vegetable juice, carbonated water, and all
14 other preparations commonly known as soft drinks of whatever
15 kind or description that are contained in any closed or sealed
16 bottle, can, carton, or container, regardless of size; but
17 "soft drinks" does not include coffee, tea, non-carbonated
18 water, infant formula, milk or milk products as defined in the
19 Grade A Pasteurized Milk and Milk Products Act, or drinks
20 containing 50% or more 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 the effective date of this amendatory Act of
14 the 98th General Assembly, "prescription and nonprescription
15 medicines and drugs" includes medical cannabis purchased from a
16 registered dispensing organization under the Compassionate Use
17 of Medical Cannabis Pilot Program Act.

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

25 (Source: P.A. 99-143, eff. 7-27-15; 99-858, eff. 8-19-16;
26 100-22, eff. 7-6-17.)

1 (35 ILCS 105/3-40) (from Ch. 120, par. 439.3-40)

2 Sec. 3-40. Gasohol. As used in this Act, "gasohol" means
3 motor fuel that is a denatured ethanol and gasoline blend ~~of~~
4 ~~denatured ethanol and gasoline~~ that contains (i) no more than
5 1.25% water by weight and (ii) the maximum proportion of
6 ethanol authorized by the United States Environmental
7 Protection Agency under Section 211 of the Clean Air Act. ~~The~~
8 ~~blend must contain 90% gasoline and 10% denatured ethanol.~~ A
9 maximum of one percent error factor in the amount of denatured
10 ethanol used in the blend is allowable to compensate for
11 blending equipment variations. Any person who knowingly sells
12 or represents as gasohol any fuel that does not qualify as
13 gasohol under this Act is guilty of a business offense and
14 shall be fined not more than \$100 for each day that the sale or
15 representation takes place after notification from the
16 Department of Agriculture that the fuel in question does not
17 qualify as gasohol.

18 (Source: P.A. 93-724, eff. 7-13-04.)

19 (35 ILCS 105/3-44)

20 Sec. 3-44. Majority blended ethanol fuel. "Majority
21 blended ethanol fuel" means motor fuel that (i) contains not
22 less than 51% and no more than 83% by volume ethanol, as
23 specified in ASTM Standard DS798-11 and (ii) is capable of
24 being used in the operation of flexible fuel vehicles. ~~70% and~~

1 ~~no more than 90% denatured ethanol and no less than 10% and no~~
2 ~~more than 30% gasoline.~~

3 (Source: P.A. 93-17, eff. 6-11-03.)

4 (35 ILCS 105/3-44.3 new)

5 Sec. 3-44.3. Mid-range ethanol blend. "Mid-range ethanol
6 blend" means a blend of gasoline and denatured ethanol that
7 contains not less than 20% but less than 51% denatured ethanol.

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

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

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

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

21 With respect to gasohol, as defined in the Use Tax Act, the
22 tax imposed by this Act applies to (i) 70% of the selling price
23 of property transferred as an incident to the sale of service

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

9 With respect to mid-range ethanol blends, as defined in the
10 Use Tax Act, the tax imposed by this Act applies to (i) 80% of
11 the selling price of property transferred as an incident to the
12 sale of service on or after July 1, 2018 and on or before
13 December 31, 2019 and (ii) 100% of the selling price
14 thereafter. If, at any time, however, the tax under this Act on
15 sales of mid-range ethanol blends is imposed at the rate of
16 1.25%, then the tax imposed by this Act applies to 100% of the
17 proceeds of sales of mid-range ethanol blends made during that
18 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 selling price of property transferred as an incident to
22 the sale of service on or after July 1, 2003 and on or before
23 December 31, 2023 but applies to 100% of the selling price
24 thereafter.

25 With respect to biodiesel blends, as defined in the Use Tax
26 Act, with no less than 1% and no more than 10% biodiesel, the

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

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

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

1 incident to the sale of those services.

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

1 soft drinks of whatever kind or description that are contained
2 in any closed or sealed bottle, can, carton, or container,
3 regardless of size; but "soft drinks" does not include coffee,
4 tea, non-carbonated water, infant formula, milk or milk
5 products as defined in the Grade A Pasteurized Milk and Milk
6 Products Act, or drinks containing 50% or more natural fruit or
7 vegetable juice.

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

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

26 Notwithstanding any other provisions of this Act,

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

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

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

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

26 Beginning on January 1, 2014 (the effective date of Public

1 Act 98-122), "prescription and nonprescription medicines and
2 drugs" includes medical cannabis purchased from a registered
3 dispensing organization under the Compassionate Use of Medical
4 Cannabis Pilot Program Act.

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

12 (Source: P.A. 99-143, eff. 7-27-15; 99-180, eff. 7-29-15;
13 99-642, eff. 7-28-16; 99-858, eff. 8-19-16; 100-22, eff.
14 7-6-17.)

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

17 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

18 Sec. 3-10. Rate of tax. Unless otherwise provided in this
19 Section, the tax imposed by this Act is at the rate of 6.25% of
20 the "selling price", as defined in Section 2 of the Service Use
21 Tax Act, of the tangible personal property. For the purpose of
22 computing this tax, in no event shall the "selling price" be
23 less than the cost price to the serviceman of the tangible
24 personal property transferred. The selling price of each item

1 of tangible personal property transferred as an incident of a
2 sale of service may be shown as a distinct and separate item on
3 the serviceman's billing to the service customer. If the
4 selling price is not so shown, the selling price of the
5 tangible personal property is deemed to be 50% of the
6 serviceman's entire billing to the service customer. When,
7 however, a serviceman contracts to design, develop, and produce
8 special order machinery or equipment, the tax imposed by this
9 Act shall be based on the serviceman's cost price of the
10 tangible personal property transferred incident to the
11 completion of the contract.

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

16 With respect to gasohol, as defined in the Use Tax Act, the
17 tax imposed by this Act shall apply to (i) 70% of the cost
18 price of property transferred as an incident to the sale of
19 service on or after January 1, 1990, and before July 1, 2003,
20 (ii) 80% of the selling price of property transferred as an
21 incident to the sale of service on or after July 1, 2003 and on
22 or before July 1, 2017, and (iii) 100% of the cost price
23 thereafter. If, at any time, however, the tax under this Act on
24 sales of gasohol, as defined in the Use Tax Act, is imposed at
25 the rate of 1.25%, then the tax imposed by this Act applies to
26 100% of the proceeds of sales of gasohol made during that time.

1 With respect to mid-range ethanol blends, as defined in the
2 Use Tax Act, the tax imposed by this Act applies to (i) 80% of
3 the selling price of property transferred as an incident to the
4 sale of service on or after July 1, 2018 and on or before
5 December 31, 2019 and (ii) 100% of the selling price
6 thereafter. If, at any time, however, the tax under this Act on
7 sales of mid-range ethanol blends is imposed at the rate of
8 1.25%, then the tax imposed by this Act applies to 100% of the
9 proceeds of sales of mid-range ethanol blends made during that
10 time.

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

17 With respect to biodiesel blends, as defined in the Use Tax
18 Act, with no less than 1% and no more than 10% biodiesel, the
19 tax imposed by this Act applies to (i) 80% 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, 2018 and
22 (ii) 100% of the proceeds of the selling price thereafter. If,
23 at any time, however, the tax under this Act on sales of
24 biodiesel blends, as defined in the Use Tax Act, with no less
25 than 1% and no more than 10% biodiesel is imposed at the rate
26 of 1.25%, then the tax imposed by this Act applies to 100% of

1 the proceeds of sales of biodiesel blends with no less than 1%
2 and no more than 10% biodiesel made during that time.

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

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

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

1 or the Child Care Act of 1969. The tax shall also be imposed at
2 the rate of 1% on food for human consumption that is to be
3 consumed off the premises where it is sold (other than
4 alcoholic beverages, soft drinks, and food that has been
5 prepared for immediate consumption and is not otherwise
6 included in this paragraph) and prescription and
7 nonprescription medicines, drugs, medical appliances, products
8 classified as Class III medical devices by the United States
9 Food and Drug Administration that are used for cancer treatment
10 pursuant to a prescription, as well as any accessories and
11 components related to those devices, modifications to a motor
12 vehicle for the purpose of rendering it usable by a person with
13 a disability, and insulin, urine testing materials, syringes,
14 and needles used by diabetics, for human use. For the purposes
15 of this Section, until September 1, 2009: the term "soft
16 drinks" means any complete, finished, ready-to-use,
17 non-alcoholic drink, whether carbonated or not, including but
18 not limited to soda water, cola, fruit juice, vegetable juice,
19 carbonated water, and all other preparations commonly known as
20 soft drinks of whatever kind or description that are contained
21 in any closed or sealed can, carton, or container, regardless
22 of size; but "soft drinks" does not include coffee, tea,
23 non-carbonated water, infant formula, milk or milk products as
24 defined in the Grade A Pasteurized Milk and Milk Products Act,
25 or drinks containing 50% or more natural fruit or vegetable
26 juice.

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

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

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

1 flour or requires refrigeration.

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

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

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

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

24 (Source: P.A. 99-143, eff. 7-27-15; 99-180, eff. 7-29-15;
25 99-642, eff. 7-28-16; 99-858, eff. 8-19-16; 100-22, eff.
26 7-6-17.)

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

3 (35 ILCS 120/2-10)

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

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

15 Within 14 days after the effective date of this amendatory
16 Act of the 91st General Assembly, each retailer of motor fuel
17 and gasohol shall cause the following notice to be posted in a
18 prominently visible place on each retail dispensing device that
19 is used to dispense motor fuel or gasohol in the State of
20 Illinois: "As of July 1, 2000, the State of Illinois has
21 eliminated the State's share of sales tax on motor fuel and
22 gasohol through December 31, 2000. The price on this pump
23 should reflect the elimination of the tax." The notice shall be
24 printed in bold print on a sign that is no smaller than 4

1 inches by 8 inches. The sign shall be clearly visible to
2 customers. Any retailer who fails to post or maintain a
3 required sign through December 31, 2000 is guilty of a petty
4 offense for which the fine shall be \$500 per day per each
5 retail premises where a violation occurs.

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

16 With respect to mid-range ethanol blends, as defined in the
17 Use Tax Act, the tax imposed by this Act applies to (i) 80% of
18 the proceeds of sales made on or after July 1, 2018 and on or
19 before December 31, 2019 and (ii) 100% of the proceeds of sales
20 made thereafter. If, at any time, however, the tax under this
21 Act on sales of mid-range ethanol blends is imposed at the rate
22 of 1.25%, then the tax imposed by this Act applies to 100% of
23 the proceeds of sales of mid-range ethanol blends made during
24 that time.

25 With respect to majority blended ethanol fuel, as defined
26 in the Use Tax Act, the tax imposed by this Act does not apply

1 to the proceeds of sales made on or after July 1, 2003 and on or
2 before December 31, 2023 but applies to 100% of the proceeds of
3 sales made 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 proceeds of
7 sales made on or after July 1, 2003 and on or before December
8 31, 2018 and (ii) 100% of the proceeds of sales made
9 thereafter. If, at any time, however, the tax under this Act on
10 sales of biodiesel blends, as defined in the Use Tax Act, with
11 no less than 1% and no more than 10% biodiesel is imposed at
12 the rate of 1.25%, then the tax imposed by this Act applies to
13 100% of the proceeds of sales of biodiesel blends with no less
14 than 1% and no more than 10% biodiesel made during that time.

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

21 With respect to 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 prescription and
25 nonprescription medicines, drugs, medical appliances, products
26 classified as Class III medical devices by the United States

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

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

25 Until August 1, 2009, and notwithstanding any other
26 provisions of this Act, "food for human consumption that is to

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

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

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

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

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

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

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

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

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