



## 102ND GENERAL ASSEMBLY

### State of Illinois

### 2021 and 2022

#### HB1828

Introduced 2/17/2021, by Rep. LaToya Greenwood

#### SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-10

35 ILCS 110/3-10

35 ILCS 115/3-10

35 ILCS 120/2-10

from Ch. 120, par. 439.33-10

from Ch. 120, par. 439.103-10

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Reduces the rate of tax on diapers and baby wipes to 1% (currently, 6.25%).

LRB102 14521 HLH 19874 b

FISCAL NOTE ACT  
MAY APPLY

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 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  
14 functionally used or consumed is a by-product or waste product  
15 that has been refined, manufactured, or produced from property  
16 purchased at retail, then the tax is imposed on the lower of  
17 the fair market value, if any, of the specific property so used  
18 in this State or on the selling price of the property purchased  
19 at retail. For purposes of this Section "fair market value"  
20 means the price at which property would change hands between a  
21 willing buyer and a willing seller, neither being under any  
22 compulsion to buy or sell and both having reasonable knowledge  
23 of the relevant facts. The fair market value shall be

1 established by Illinois sales by the taxpayer of the same  
2 property as that functionally used or consumed, or if there  
3 are no such sales by the taxpayer, then comparable sales or  
4 purchases of property of 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, food consisting of or infused with adult  
18 use cannabis, soft drinks, and food that has been prepared for  
19 immediate consumption) and prescription and nonprescription  
20 medicines, drugs, medical appliances, products classified as  
21 Class III medical devices by the United States Food and Drug  
22 Administration that are used for cancer treatment pursuant to  
23 a prescription, as well as any accessories and components  
24 related to those devices, modifications to a motor vehicle for  
25 the purpose of rendering it usable by a person with a  
26 disability, diapers, baby wipes, and insulin, urine testing

1 materials, syringes, and needles used by diabetics, for human  
2 use, the tax is imposed at the rate of 1%. For the purposes of  
3 this Section, until September 1, 2009: the term "soft drinks"  
4 means any complete, finished, ready-to-use, non-alcoholic  
5 drink, whether carbonated or not, including but not limited to  
6 soda water, cola, fruit juice, vegetable juice, carbonated  
7 water, and all other preparations commonly known as soft  
8 drinks of whatever kind or description that are contained in  
9 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  
14 or 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  
13 other 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  
10 a registered dispensing organization under the Compassionate  
11 Use of Medical Cannabis Program Act.

12 As used in this Section, "adult use cannabis" means  
13 cannabis subject to tax under the Cannabis Cultivation  
14 Privilege Tax Law and the Cannabis Purchaser Excise Tax Law  
15 and does not include cannabis subject to tax under the  
16 Compassionate Use of Medical Cannabis Program Act.

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

24 (Source: P.A. 100-22, eff. 7-6-17; 101-363, eff. 8-9-19;  
25 101-593, eff. 12-4-19.)

1 Section 10. The Service Use Tax Act is amended by changing  
2 Sections 3-10 and 9 as follows:

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

4 Sec. 3-10. 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 the selling price of tangible personal property transferred as  
7 an incident to the sale of service, but, for the purpose of  
8 computing this tax, in no event shall the selling price be less  
9 than the cost price of the property to the serviceman.

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

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

25 With respect to majority blended ethanol fuel, as defined



1 in the Use Tax Act, the tax imposed by this Act does not apply  
2 to 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 December 31, 2023 but applies to 100% of the selling price  
5 thereafter.

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

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

25 At the election of any registered serviceman made for each  
26 fiscal year, sales of service in which the aggregate annual

1 cost price of tangible personal property transferred as an  
2 incident to the sales of service is less than 35%, or 75% in  
3 the case of servicemen transferring prescription drugs or  
4 servicemen engaged in graphic arts production, of the  
5 aggregate annual total gross receipts from all sales of  
6 service, the tax imposed by this Act shall be based on the  
7 serviceman's cost price of the tangible personal property  
8 transferred as an incident to the sale of those services.

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

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

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

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

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

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

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

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

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

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

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

13 As used in this Section, "adult use cannabis" means  
14 cannabis subject to tax under the Cannabis Cultivation  
15 Privilege Tax Law and the Cannabis Purchaser Excise Tax Law  
16 and does not include cannabis subject to tax under the  
17 Compassionate Use of Medical Cannabis Program Act.

18 If the property that is acquired from a serviceman is  
19 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  
24 out-of-state use.

25 (Source: P.A. 100-22, eff. 7-6-17; 101-363, eff. 8-9-19;  
26 101-593, eff. 12-4-19.)

1           Section 15. The Service Occupation Tax Act is amended by  
2 changing Sections 3-10 and 9 as follows:

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

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

22           Beginning on July 1, 2000 and through December 31, 2000,  
23 with respect to motor fuel, as defined in Section 1.1 of the  
24 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of

1 the Use Tax Act, the tax is imposed at the rate of 1.25%.

2 With respect to gasohol, as defined in the Use Tax Act, the  
3 tax imposed by this Act shall apply to (i) 70% of the cost  
4 price of property transferred as an incident to the sale of  
5 service on or after January 1, 1990, and before July 1, 2003,  
6 (ii) 80% of the selling price of property transferred as an  
7 incident to the sale of service on or after July 1, 2003 and on  
8 or before July 1, 2017, and (iii) 100% of the cost price  
9 thereafter. If, at any time, however, the tax under this Act on  
10 sales of gasohol, as defined in the Use Tax Act, is imposed at  
11 the rate of 1.25%, then the tax imposed by this Act applies to  
12 100% of the proceeds of sales of gasohol made during that time.

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

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

1 no less than 1% and no more than 10% biodiesel 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 biodiesel blends with no less  
4 than 1% and no more than 10% biodiesel made during that time.

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

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

23 The tax shall be imposed at the rate of 1% on food prepared  
24 for immediate consumption and transferred incident to a sale  
25 of service subject to this Act or the Service Occupation Tax  
26 Act by an entity licensed under the Hospital Licensing Act,



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

1 milk or milk products as defined in the Grade A Pasteurized  
2 Milk and Milk Products Act, or drinks containing 50% or more  
3 natural fruit or vegetable juice.

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

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  
2       other 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 Program Act.

1           As used in this Section, "adult use cannabis" means  
2 cannabis subject to tax under the Cannabis Cultivation  
3 Privilege Tax Law and the Cannabis Purchaser Excise Tax Law  
4 and does not include cannabis subject to tax under the  
5 Compassionate Use of Medical Cannabis Program Act.

6           (Source: P.A. 100-22, eff. 7-6-17; 101-363, eff. 8-9-19;  
7 101-593, eff. 12-4-19.)

8           Section 20. The Retailers' Occupation Tax Act is amended  
9 by changing Sections 2-10 and 3 as follows:

10           (35 ILCS 120/2-10)

11           Sec. 2-10. 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 gross receipts from sales of tangible personal property made  
14 in the course of business.

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

22           Within 14 days after the effective date of this amendatory  
23 Act of the 91st General Assembly, each retailer of motor fuel  
24 and gasohol shall cause the following notice to be posted in a

1 prominently visible place on each retail dispensing device  
2 that is used to dispense motor fuel or gasohol in the State of  
3 Illinois: "As of July 1, 2000, the State of Illinois has  
4 eliminated the State's share of sales tax on motor fuel and  
5 gasohol through December 31, 2000. The price on this pump  
6 should reflect the elimination of the tax." The notice shall  
7 be printed in bold print on a sign that is no smaller than 4  
8 inches by 8 inches. The sign shall be clearly visible to  
9 customers. Any retailer who fails to post or maintain a  
10 required sign through December 31, 2000 is guilty of a petty  
11 offense for which the fine shall be \$500 per day per each  
12 retail premises where a violation occurs.

13 With respect to gasohol, as defined in the Use Tax Act, the  
14 tax imposed by this Act applies to (i) 70% of the proceeds of  
15 sales made on or after January 1, 1990, and before July 1,  
16 2003, (ii) 80% of the proceeds of sales made on or after July  
17 1, 2003 and on or before July 1, 2017, and (iii) 100% of the  
18 proceeds of sales made thereafter. If, at any time, however,  
19 the tax under this Act on sales of gasohol, as defined in the  
20 Use Tax Act, is imposed at the rate of 1.25%, then the tax  
21 imposed by this Act applies to 100% of the proceeds of sales of  
22 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 proceeds of sales made on or after July 1, 2003 and on  
26 or before December 31, 2023 but applies to 100% of the proceeds

1 of sales made thereafter.

2 With respect to biodiesel blends, as defined in the Use  
3 Tax Act, with no less than 1% and no more than 10% biodiesel,  
4 the tax imposed by this Act applies to (i) 80% of the proceeds  
5 of sales made on or after July 1, 2003 and on or before  
6 December 31, 2018 and (ii) 100% of the proceeds of sales made  
7 thereafter. If, at any time, however, the tax under this Act on  
8 sales of biodiesel blends, as defined in the Use Tax Act, with  
9 no less than 1% and no more than 10% biodiesel is imposed at  
10 the rate of 1.25%, then the tax imposed by this Act applies to  
11 100% of the proceeds of sales of biodiesel blends with no less  
12 than 1% 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 sales made on or  
17 after July 1, 2003 and on or before December 31, 2023 but  
18 applies to 100% of the proceeds of sales made thereafter.

19 With respect to food for human consumption that is to be  
20 consumed off the premises where it is sold (other than  
21 alcoholic beverages, food consisting of or infused with adult  
22 use cannabis, soft drinks, and food that has been prepared for  
23 immediate consumption) and prescription and nonprescription  
24 medicines, drugs, medical appliances, products classified as  
25 Class III medical devices by the United States Food and Drug  
26 Administration that are used for cancer treatment pursuant to

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

16 As used in this Section, "adult use cannabis" means  
17 cannabis subject to tax under the Cannabis Cultivation  
18 Privilege Tax Law and the Cannabis Purchaser Excise Tax Law  
19 and does not include cannabis subject to tax under the  
20 Compassionate Use of Medical Cannabis Program Act.

21 (Source: P.A. 100-22, eff. 7-6-17; 101-363, eff. 8-9-19;  
22 101-593, eff. 12-4-19.)