



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB2387

Introduced 2/17/2021, by Rep. Joyce Mason

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. Provides that, with respect to diapers, infant formula, and breastfeeding supplies designed for human use, the tax is imposed at the rate of 1%.

LRB102 12910 HLH 18253 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 Section
5 3-10 as follows:

6 (35 ILCS 105/3-10)

7 Sec. 3-10. Rate of tax. Unless otherwise provided in this
8 Section, the tax imposed by this Act is at the rate of 6.25% of
9 either the selling price or the fair market value, if any, of
10 the tangible personal property. In all cases where property
11 functionally used or consumed is the same as the property that
12 was purchased at retail, then the tax is imposed on the selling
13 price of the property. In all cases where property
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, and insulin, urine testing materials, syringes,

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

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

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

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

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

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

1 label includes:

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

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

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

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

16 Beginning on the effective date of this amendatory Act of
17 the 102nd General Assembly, with respect to diapers, infant
18 formula, and breastfeeding supplies designed for human use,
19 the tax is imposed at the rate of 1%. As used in this Section,
20 "breastfeeding supplies" means breast pumps, breast pump kits,
21 and other items of tangible personal property designed or
22 marketed to be used in conjunction with a breast pump,
23 including, but not limited to, breast shields, tubes, bottles
24 and bottle caps specific to the operation of the breast pump,
25 and bags used in the collection of breast milk. As used in this
26 Section "infant formula" means a food which purports to be or

1 is represented for special dietary use solely as a food for
2 infants by reason of its simulation of human milk or its
3 suitability as a complete or partial substitute for human
4 milk.

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

12 (Source: P.A. 100-22, eff. 7-6-17; 101-363, eff. 8-9-19;
13 101-593, eff. 12-4-19.)

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

16 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

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

23 Beginning on July 1, 2000 and through December 31, 2000,
24 with respect to motor fuel, as defined in Section 1.1 of the

1 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
2 the Use Tax Act, the tax is imposed at the rate of 1.25%.

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

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

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

1 sales of biodiesel blends, as defined in the Use Tax Act, with
2 no less than 1% and no more than 10% biodiesel is imposed at
3 the rate of 1.25%, then the tax imposed by this Act applies to
4 100% of the proceeds of sales of biodiesel blends with no less
5 than 1% and no more than 10% biodiesel made during that time.

6 With respect to 100% biodiesel, as defined in the Use Tax
7 Act, and biodiesel blends, as defined in the Use Tax Act, with
8 more than 10% but no more than 99% biodiesel, the tax imposed
9 by this Act does not apply to the proceeds of the selling price
10 of property transferred as an incident to the sale of service
11 on or after July 1, 2003 and on or before December 31, 2023 but
12 applies to 100% of the selling price 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 as an 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, and insulin, urine testing materials, syringes,
17 and needles used by diabetics, for human use. For the purposes
18 of this Section, until September 1, 2009: the term "soft
19 drinks" means any complete, finished, ready-to-use,
20 non-alcoholic drink, whether carbonated or not, including but
21 not limited to soda water, cola, fruit juice, vegetable juice,
22 carbonated water, and all other preparations commonly known as
23 soft drinks of whatever kind or description that are contained
24 in any closed or sealed bottle, can, carton, or container,
25 regardless of size; but "soft drinks" does not include coffee,
26 tea, non-carbonated water, infant formula, milk or milk

1 products as defined in the Grade A Pasteurized Milk and Milk
2 Products Act, or drinks containing 50% or more natural fruit
3 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 Beginning on the effective date of this amendatory Act of
7 the 102nd General Assembly, with respect to diapers, infant
8 formula, and breastfeeding supplies designed for human use,
9 the tax is imposed at the rate of 1%. As used in this Section,
10 "breastfeeding supplies" means breast pumps, breast pump kits,
11 and other items of tangible personal property designed or
12 marketed to be used in conjunction with a breast pump,
13 including, but not limited to, breast shields, tubes, bottles
14 and bottle caps specific to the operation of the breast pump,
15 and bags used in the collection of breast milk. As used in this
16 Section "infant formula" means a food which purports to be or
17 is represented for special dietary use solely as a food for
18 infants by reason of its simulation of human milk or its
19 suitability as a complete or partial substitute for human
20 milk.

21 If the property that is acquired from a serviceman is
22 acquired outside Illinois and used outside Illinois before
23 being brought to Illinois for use here and is taxable under
24 this Act, the "selling price" on which the tax is computed
25 shall be reduced by an amount that represents a reasonable
26 allowance for depreciation for the period of prior

1 out-of-state use.

2 (Source: P.A. 100-22, eff. 7-6-17; 101-363, eff. 8-9-19;
3 101-593, eff. 12-4-19.)

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

6 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

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

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

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

16 With respect to majority blended ethanol fuel, as defined
17 in the Use Tax Act, the tax imposed by this Act does not apply
18 to 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 December 31, 2023 but applies to 100% of the selling price
21 thereafter.

22 With respect to biodiesel blends, as defined in the Use
23 Tax Act, with no less than 1% and no more than 10% biodiesel,
24 the tax imposed by this Act applies to (i) 80% of the selling
25 price of property transferred as an incident to the sale of
26 service on or after July 1, 2003 and on or before December 31,

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

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

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

26 The tax shall be imposed at the rate of 1% on food prepared

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

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

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

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

25 Notwithstanding any other provisions of this Act,
26 beginning September 1, 2009, "food for human consumption that

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

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

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

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

25 Beginning on January 1, 2014 (the effective date of Public
26 Act 98-122), "prescription and nonprescription medicines and

1 drugs" includes medical cannabis purchased from a registered
2 dispensing organization under the Compassionate Use of Medical
3 Cannabis Program Act.

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

9 Beginning on the effective date of this amendatory Act of
10 the 102nd General Assembly, with respect to diapers, infant
11 formula, and breastfeeding supplies designed for human use,
12 the tax is imposed at the rate of 1%. As used in this Section,
13 "breastfeeding supplies" means breast pumps, breast pump kits,
14 and other items of tangible personal property designed or
15 marketed to be used in conjunction with a breast pump,
16 including, but not limited to, breast shields, tubes, bottles
17 and bottle caps specific to the operation of the breast pump,
18 and bags used in the collection of breast milk. As used in this
19 Section "infant formula" means a food which purports to be or
20 is represented for special dietary use solely as a food for
21 infants by reason of its simulation of human milk or its
22 suitability as a complete or partial substitute for human
23 milk.

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 20. The Retailers' Occupation Tax Act is amended
2 by 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
7 in 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
19 that 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
24 be printed in bold print on a sign that is no smaller than 4
25 inches by 8 inches. The sign shall be clearly visible to

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

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

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

20 With respect to biodiesel blends, as defined in the Use
21 Tax Act, with no less than 1% and no more than 10% biodiesel,
22 the tax imposed by this Act applies to (i) 80% of the proceeds
23 of sales made on or after July 1, 2003 and on or before
24 December 31, 2018 and (ii) 100% of the proceeds of sales made
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, the tax imposed
8 by this Act does not apply to the proceeds of sales made on or
9 after July 1, 2003 and on or before December 31, 2023 but
10 applies to 100% of the proceeds of sales made thereafter.

11 With respect to food for human consumption that is to be
12 consumed off the premises where it is sold (other than
13 alcoholic beverages, food consisting of or infused with adult
14 use cannabis, soft drinks, and food that has been prepared for
15 immediate consumption) and prescription and nonprescription
16 medicines, drugs, medical appliances, products classified as
17 Class III medical devices by the United States Food and Drug
18 Administration that are used for cancer treatment pursuant to
19 a prescription, as well as any accessories and components
20 related to those devices, modifications to a motor vehicle for
21 the purpose of rendering it usable by a person with a
22 disability, and insulin, urine testing materials, syringes,
23 and needles used by diabetics, for human use, the tax is
24 imposed at the rate of 1%. For the purposes of this Section,
25 until September 1, 2009: the term "soft drinks" means any
26 complete, finished, ready-to-use, non-alcoholic drink, whether

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

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

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

1 regardless of the location of the vending machine.

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

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

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

25 (B) A statement of the "active ingredient(s)" with a
26 list of those ingredients contained in the compound,

1 substance or preparation.

2 Beginning on the effective date of this amendatory Act of
3 the 98th General Assembly, "prescription and nonprescription
4 medicines and drugs" includes medical cannabis purchased from
5 a registered dispensing organization under the Compassionate
6 Use of Medical Cannabis Program Act.

7 As used in this Section, "adult use cannabis" means
8 cannabis subject to tax under the Cannabis Cultivation
9 Privilege Tax Law and the Cannabis Purchaser Excise Tax Law
10 and does not include cannabis subject to tax under the
11 Compassionate Use of Medical Cannabis Program Act.

12 Beginning on the effective date of this amendatory Act of
13 the 102nd General Assembly, with respect to diapers, infant
14 formula, and breastfeeding supplies designed for human use,
15 the tax is imposed at the rate of 1%. As used in this Section,
16 "breastfeeding supplies" means breast pumps, breast pump kits,
17 and other items of tangible personal property designed or
18 marketed to be used in conjunction with a breast pump,
19 including, but not limited to, breast shields, tubes, bottles
20 and bottle caps specific to the operation of the breast pump,
21 and bags used in the collection of breast milk. As used in this
22 Section "infant formula" means a food which purports to be or
23 is represented for special dietary use solely as a food for
24 infants by reason of its simulation of human milk or its
25 suitability as a complete or partial substitute for human
26 milk.

1 (Source: P.A. 100-22, eff. 7-6-17; 101-363, eff. 8-9-19;
2 101-593, eff. 12-4-19.)