



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5723

Introduced 3/15/2022, by Rep. Mark Batinick - Patrick Windhorst - Paul Jacobs - Daniel Swanson

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-10	
35 ILCS 110/3-10	from Ch. 120, par. 439.33-10
35 ILCS 115/3-10	from Ch. 120, par. 439.103-10
35 ILCS 120/2-10	
35 ILCS 120/2d	from Ch. 120, par. 441d

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that, beginning 30 days after the effective date of the amendatory Act, the cents per gallon rate established by the Department of Revenue for the prepayment of tax by motor fuel retailers may not exceed \$0.18 per gallon for motor fuel and 80% of that amount for gasohol and biodiesel blends. Provides that the rate of tax imposed under the Acts for motor fuel, gasohol, majority blended ethanol fuel, and biodiesel and biodiesel blends may not exceed that prepayment amount set by the Department of Revenue. Effective immediately.

LRB102 26700 HLH 37540 b

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 30 days after the effective date of this
10 amendatory Act of the 102nd General Assembly, with respect to:
11 motor fuel, as defined in Section 1.1 of the Motor Fuel Tax
12 Law; gasohol, as defined in Section 3-40 of this Act; majority
13 blended ethanol fuel; and biodiesel and biodiesel blends, the
14 tax imposed under this Act may not exceed the cents per gallon
15 rate established by the Department under subsection (e) of
16 Section 2d of the Retailers' Occupation Tax Act. With respect
17 to the tax imposed on biodiesel blends and gasohol, the
18 maximum cents per gallon rate shall include the reduction
19 allowed in subsection (e) of Section 2d of the Retailers'
20 Occupation Tax Act.

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

24 With respect to gasohol, the tax imposed by this Act
25 applies to (i) 70% of the proceeds of sales made on or after
26 January 1, 1990, and before July 1, 2003, (ii) 80% of the

1 proceeds of sales made on or after July 1, 2003 and on or
2 before July 1, 2017, and (iii) 100% of the proceeds of sales
3 made thereafter. If, at any time, however, the tax under this
4 Act on sales of gasohol is imposed at the rate of 1.25%, then
5 the tax imposed by this Act applies to 100% of the proceeds of
6 sales of gasohol made during that time.

7 With respect to majority blended ethanol fuel, the tax
8 imposed by this Act does not apply to the proceeds of sales
9 made on or after July 1, 2003 and on or before December 31,
10 2023 but applies to 100% of the proceeds of sales made
11 thereafter.

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

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

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

26 Notwithstanding any other provisions of this Act,

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

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

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

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

- 14 (A) A "Drug Facts" panel; or
15 (B) A statement of the "active ingredient(s)" with a
16 list of those ingredients contained in the compound,
17 substance or preparation.

18 Beginning on the effective date of this amendatory Act of
19 the 98th General Assembly, "prescription and nonprescription
20 medicines and drugs" includes medical cannabis purchased from
21 a registered dispensing organization under the Compassionate
22 Use of Medical Cannabis Program Act.

23 As used in this Section, "adult use cannabis" means
24 cannabis subject to tax under the Cannabis Cultivation
25 Privilege Tax Law and the Cannabis Purchaser Excise Tax Law
26 and does not include cannabis subject to tax under the

1 Compassionate Use of Medical Cannabis Program Act.

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

9 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;
10 102-4, eff. 4-27-21.)

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

13 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

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

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

24 Beginning 30 days after the effective date of this

1 amendatory Act of the 102nd General Assembly, with respect to:
2 motor fuel, as defined in Section 1.1 of the Motor Fuel Tax
3 Law; gasohol, as defined in Section 3-40 of the Use Tax Act;
4 majority blended ethanol fuel; and biodiesel and biodiesel
5 blends, the tax imposed under this Act may not exceed the cents
6 per gallon rate established by the Department under subsection
7 (e) of Section 2d of the Retailers' Occupation Tax Act. With
8 respect to the tax imposed on biodiesel blends and gasohol,
9 the maximum cents per gallon rate shall include the reduction
10 allowed in subsection (e) of Section 2d of the Retailers'
11 Occupation Tax Act.

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

23 With respect to majority blended ethanol fuel, as defined
24 in the Use Tax Act, the tax imposed by this Act does not apply
25 to the selling price of property transferred as an incident to
26 the sale of service on or after July 1, 2003 and on or before

1 December 31, 2023 but applies to 100% of the selling price
2 thereafter.

3 With respect to biodiesel blends, as defined in the Use
4 Tax Act, with no less than 1% and no more than 10% biodiesel,
5 the tax imposed by this Act applies to (i) 80% of the selling
6 price of property transferred as an incident to the sale of
7 service on or after July 1, 2003 and on or before December 31,
8 2018 and (ii) 100% of the proceeds of the selling price
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 the selling price
19 of property transferred as an incident to the sale of service
20 on or after July 1, 2003 and on or before December 31, 2023 but
21 applies to 100% of the selling price thereafter.

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

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

6 The tax shall be imposed at the rate of 1% on food prepared
7 for immediate consumption and transferred incident to a sale
8 of service subject to this Act or the Service Occupation Tax
9 Act by an entity licensed under the Hospital Licensing Act,
10 the Nursing Home Care Act, the Assisted Living and Shared
11 Housing Act, the ID/DD Community Care Act, the MC/DD Act, the
12 Specialized Mental Health Rehabilitation Act of 2013, or the
13 Child Care Act of 1969, or an entity that holds a permit issued
14 pursuant to the Life Care Facilities Act. The tax shall also be
15 imposed at the rate of 1% on food for human consumption that is
16 to be 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 is not otherwise included in this
20 paragraph) and prescription and nonprescription medicines,
21 drugs, medical appliances, products classified as Class III
22 medical devices by the United States Food and Drug
23 Administration that are used for cancer treatment pursuant to
24 a prescription, as well as any accessories and components
25 related to those devices, modifications to a motor vehicle for
26 the purpose of rendering it usable by a person with a

1 disability, and insulin, blood sugar testing materials,
2 syringes, and needles used by human diabetics. For the
3 purposes of this Section, until September 1, 2009: the term
4 "soft drinks" means any complete, finished, ready-to-use,
5 non-alcoholic drink, whether carbonated or not, including but
6 not limited to soda water, cola, fruit juice, vegetable juice,
7 carbonated water, and all other preparations commonly known as
8 soft drinks of whatever kind or description that are contained
9 in any closed or sealed bottle, can, carton, or container,
10 regardless of size; but "soft drinks" does not include coffee,
11 tea, non-carbonated water, infant formula, milk or milk
12 products as defined in the Grade A Pasteurized Milk and Milk
13 Products Act, or drinks containing 50% or more natural fruit
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 January 1, 2014 (the effective date of Public
8 Act 98-122), "prescription and nonprescription medicines and
9 drugs" includes medical cannabis purchased from a registered
10 dispensing organization under the Compassionate Use of Medical
11 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 acquired from a serviceman is
18 acquired outside Illinois and used outside Illinois before
19 being brought to Illinois for use here and is taxable under
20 this Act, the "selling price" on which the tax is computed
21 shall be reduced by an amount that represents a reasonable
22 allowance for depreciation for the period of prior
23 out-of-state use.

24 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;
25 102-4, eff. 4-27-21; 102-16, eff. 6-17-21.)

1 Section 15. The Service Occupation Tax Act is amended by
2 changing Section 3-10 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
25 the Use Tax Act, the tax is imposed at the rate of 1.25%.

1 Beginning 30 days after the effective date of this
2 amendatory Act of the 102nd General Assembly, with respect to:
3 motor fuel, as defined in Section 1.1 of the Motor Fuel Tax
4 Law; gasohol, as defined in Section 3-40 of the Use Tax Act;
5 majority blended ethanol fuel; and biodiesel and biodiesel
6 blends, the tax imposed under this Act may not exceed the cents
7 per gallon rate established by the Department under subsection
8 (e) of Section 2d of the Retailers' Occupation Tax Act. With
9 respect to the tax imposed on biodiesel blends and gasohol,
10 the maximum cents per gallon rate shall include the reduction
11 allowed in subsection (e) of Section 2d of the Retailers'
12 Occupation Tax Act.

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

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

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

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

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

24 At the election of any registered serviceman made for each
25 fiscal year, sales of service in which the aggregate annual
26 cost price of tangible personal property transferred as an

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;
20 102-4, eff. 4-27-21; 102-16, eff. 6-17-21.)

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

23 (35 ILCS 120/2-10)

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

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

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

8 Beginning 30 days after the effective date of this
9 amendatory Act of the 102nd General Assembly, with respect to:
10 motor fuel, as defined in Section 1.1 of the Motor Fuel Tax
11 Law; gasohol, as defined in Section 3-40 of the Use Tax Act;
12 majority blended ethanol fuel; and biodiesel and biodiesel
13 blends, the tax imposed under this Act may not exceed the cents
14 per gallon rate established by the Department under subsection
15 (e) of Section 2d of this Act. With respect to the tax imposed
16 on biodiesel blends and gasohol, the maximum cents per gallon
17 rate shall include the reduction allowed in subsection (e) of
18 Section 2d of the Retailers' Occupation Tax Act.

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
25 prominently visible place on each retail dispensing device
26 that is used to dispense motor fuel or gasohol in the State of

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

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

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

26 With respect to biodiesel blends, as defined in the Use

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

17 With respect to food for human consumption that is to be
18 consumed off the premises where it is sold (other than
19 alcoholic beverages, food consisting of or infused with adult
20 use cannabis, soft drinks, and food that has been prepared for
21 immediate consumption) and prescription and nonprescription
22 medicines, drugs, medical appliances, products classified as
23 Class III 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, and insulin, blood sugar testing materials,
3 syringes, and needles used by human diabetics, the tax is
4 imposed at the rate of 1%. For the purposes of this Section,
5 until September 1, 2009: the term "soft drinks" means any
6 complete, finished, ready-to-use, non-alcoholic drink, whether
7 carbonated or not, including but not limited to soda water,
8 cola, fruit juice, vegetable juice, carbonated water, and all
9 other preparations commonly known as soft drinks of whatever
10 kind or description that are contained in any closed or sealed
11 bottle, can, carton, or container, regardless of size; but
12 "soft drinks" does not include coffee, tea, non-carbonated
13 water, infant formula, milk or milk products as defined in the
14 Grade A Pasteurized Milk and Milk Products Act, or drinks
15 containing 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 the effective date of this amendatory Act of
9 the 98th General Assembly, "prescription and nonprescription
10 medicines and drugs" includes medical cannabis purchased from
11 a registered dispensing organization under the Compassionate
12 Use of Medical 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 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;
19 102-4, eff. 4-27-21.)

20 (35 ILCS 120/2d) (from Ch. 120, par. 441d)

21 Sec. 2d. Tax prepayment by motor fuel retailer.

22 (a) Any person engaged in the business of selling motor
23 fuel at retail, as defined in the Motor Fuel Tax Law, and who
24 is not a licensed distributor or supplier, as defined in the
25 Motor Fuel Tax Law, shall prepay to his or her distributor,

1 supplier, or other reseller of motor fuel a portion of the tax
2 imposed by this Act if the distributor, supplier, or other
3 reseller of motor fuel is registered under Section 2a or
4 Section 2c of this Act. The prepayment requirement provided
5 for in this Section does not apply to liquid propane gas.

6 (b) Beginning on July 1, 2000 and through December 31,
7 2000, the Retailers' Occupation Tax paid to the distributor,
8 supplier, or other reseller shall be an amount equal to \$0.01
9 per gallon of the motor fuel, except gasohol as defined in
10 Section 2-10 of this Act which shall be an amount equal to
11 \$0.01 per gallon, purchased from the distributor, supplier, or
12 other reseller.

13 (c) Before July 1, 2000 and then beginning on January 1,
14 2001 and through June 30, 2003, the Retailers' Occupation Tax
15 paid to the distributor, supplier, or other reseller shall be
16 an amount equal to \$0.04 per gallon of the motor fuel, except
17 gasohol as defined in Section 2-10 of this Act which shall be
18 an amount equal to \$0.03 per gallon, purchased from the
19 distributor, supplier, or other reseller.

20 (d) Beginning July 1, 2003 and through December 31, 2010,
21 the Retailers' Occupation Tax paid to the distributor,
22 supplier, or other reseller shall be an amount equal to \$0.06
23 per gallon of the motor fuel, except gasohol as defined in
24 Section 2-10 of this Act which shall be an amount equal to
25 \$0.05 per gallon, purchased from the distributor, supplier, or
26 other reseller.

1 (e) Beginning on January 1, 2011 and thereafter, the
2 Retailers' Occupation Tax paid to the distributor, supplier,
3 or other reseller shall be at the rate established by the
4 Department under this subsection. The rate shall be
5 established by the Department on January 1 and July 1 of each
6 year using the average selling price, as defined in Section 1
7 of this Act, per gallon of motor fuel sold in the State during
8 the previous 6 months and multiplying that amount by 6.25% to
9 determine the cents per gallon rate. Beginning 30 days after
10 the effective date of this amendatory Act of the 102nd General
11 Assembly, the cents per gallon rate established by the
12 Department for motor fuel under this subsection may not exceed
13 \$0.18 per gallon. In the case of biodiesel blends, as defined
14 in Section 3-42 of the Use Tax Act, with no less than 1% and no
15 more than 10% biodiesel, and in the case of gasohol, as defined
16 in Section 3-40 of the Use Tax Act, the rate shall be 80% of
17 the rate established by the Department under this subsection
18 for motor fuel. The Department shall provide persons subject
19 to this Section notice of the rate established under this
20 subsection at least 20 days prior to each January 1 and July 1.
21 The Department shall provide persons subject to this Section
22 notice of the rate change required by this amendatory Act of
23 the 102nd General Assembly at least 20 days prior to the date
24 on which that change takes effect. Publication of the
25 established rate on the Department's internet website shall
26 constitute sufficient notice under this Section. The

1 Department may use data derived from independent surveys
2 conducted or accumulated by third parties to determine the
3 average selling price per gallon of motor fuel sold in the
4 State.

5 (f) Any person engaged in the business of selling motor
6 fuel at retail shall be entitled to a credit against tax due
7 under this Act in an amount equal to the tax paid to the
8 distributor, supplier, or other reseller.

9 (g) Every distributor, supplier, or other reseller
10 registered as provided in Section 2a or Section 2c of this Act
11 shall remit the prepaid tax on all motor fuel that is due from
12 any person engaged in the business of selling at retail motor
13 fuel with the returns filed under Section 2f or Section 3 of
14 this Act, but the vendors discount provided in Section 3 shall
15 not apply to the amount of prepaid tax that is remitted. Any
16 distributor or supplier who fails to properly collect and
17 remit the tax shall be liable for the tax. For purposes of this
18 Section, the prepaid tax is due on invoiced gallons sold
19 during a month by the 20th day of the following month.

20 (Source: P.A. 96-1384, eff. 7-29-10.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.