



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**HB4103**

Introduced 8/25/2005, by Rep. Jack D. Franks

**SYNOPSIS AS INTRODUCED:**

35 ILCS 105/3-10	from Ch. 120, par. 439.3-10
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	from Ch. 120, par. 441-10

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 motor fuel and gasohol taxed at a rate of 6.25%, the tax imposed under these Acts may not exceed \$0.15 per gallon. Effective immediately.

LRB094 13273 BDD 48127 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) (from Ch. 120, par. 439.3-10)

7 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
8 Section, the tax imposed by this Act is at the rate of 6.25% of  
9 either the selling price or the fair market value, if any, of  
10 the tangible personal property. In all cases where property  
11 functionally used or consumed is the same as the property that  
12 was purchased at retail, then the tax is imposed on the selling  
13 price of the property. In all cases where property functionally  
14 used or consumed is a by-product or waste product that has been  
15 refined, manufactured, or produced from property purchased at  
16 retail, then the tax is imposed on the lower of the fair market  
17 value, if any, of the specific property so used in this State  
18 or on the selling price of the property purchased at retail.  
19 For purposes of this Section "fair market value" means the  
20 price at which property would change hands between a willing  
21 buyer and a willing seller, neither being under any compulsion  
22 to buy or sell and both having reasonable knowledge of the  
23 relevant facts. The fair market value shall be established by  
24 Illinois sales by the taxpayer of the same property as that  
25 functionally used or consumed, or if there are no such sales by  
26 the taxpayer, then comparable sales or purchases of property of  
27 like kind and character in Illinois.

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

32 Beginning on the effective date of this amendatory Act of

1 the 94th General Assembly, with respect to motor fuel and  
2 gasohol taxed at a rate of 6.25%, the tax imposed under this  
3 Act may not exceed \$0.15 per gallon.

4 With respect to gasohol, the tax imposed by this Act  
5 applies to (i) 70% of the proceeds of sales made on or after  
6 January 1, 1990, and before July 1, 2003, (ii) 80% of the  
7 proceeds of sales made on or after July 1, 2003 and on or  
8 before December 31, 2013, and (iii) 100% of the proceeds of  
9 sales made thereafter. If, at any time, however, the tax under  
10 this Act on sales of gasohol is imposed at the rate of 1.25%,  
11 then the tax imposed by this Act applies to 100% of the  
12 proceeds of sales of gasohol made during that time.

13 With respect to majority blended ethanol fuel, the tax  
14 imposed by this Act does not apply to the proceeds of sales  
15 made on or after July 1, 2003 and on or before December 31,  
16 2013 but applies to 100% of the proceeds of sales made  
17 thereafter.

18 With respect to biodiesel blends with no less than 1% and  
19 no more than 10% biodiesel, the tax imposed by this Act applies  
20 to (i) 80% of the proceeds of sales made on or after July 1,  
21 2003 and on or before December 31, 2013 and (ii) 100% of the  
22 proceeds of sales made thereafter. If, at any time, however,  
23 the tax under this Act on sales of biodiesel blends with no  
24 less than 1% and no more than 10% biodiesel is imposed at the  
25 rate of 1.25%, then the tax imposed by this Act applies to 100%  
26 of the proceeds of sales of biodiesel blends with no less than  
27 1% and no more than 10% biodiesel made during that time.

28 With respect to 100% biodiesel and biodiesel blends with  
29 more than 10% but no more than 99% biodiesel, the tax imposed  
30 by this Act does not apply to the proceeds of sales made on or  
31 after July 1, 2003 and on or before December 31, 2013 but  
32 applies to 100% of the proceeds of sales made thereafter.

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

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

17 Notwithstanding any other provisions of this Act, "food for  
18 human consumption that is to be consumed off the premises where  
19 it is sold" includes all food sold through a vending machine,  
20 except soft drinks and food products that are dispensed hot  
21 from a vending machine, regardless of the location of the  
22 vending machine.

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

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

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

33 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

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

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

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

10 Beginning on the effective date of this amendatory Act of  
11 the 94th General Assembly, with respect to motor fuel and  
12 gasohol taxed at a rate of 6.25%, the tax imposed under this  
13 Act may not exceed \$0.15 per gallon.

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 December 31, 2013, and (iii) 100% of the selling price  
21 thereafter. If, at any time, however, the tax under this Act on  
22 sales of gasohol, as defined in the Use Tax Act, is imposed at  
23 the rate of 1.25%, then the tax imposed by this Act applies to  
24 100% of the proceeds of sales of gasohol made during that time.

25 With respect to majority blended ethanol fuel, as defined  
26 in the Use Tax Act, the tax imposed by this Act does not apply  
27 to the selling price of property transferred as an incident to  
28 the sale of service on or after July 1, 2003 and on or before  
29 December 31, 2013 but applies to 100% of the selling price  
30 thereafter.

31 With respect to biodiesel blends, as defined in the Use Tax  
32 Act, with no less than 1% and no more than 10% biodiesel, the  
33 tax imposed by this Act applies to (i) 80% of the selling price  
34 of property transferred as an incident to the sale of service  
35 on or after July 1, 2003 and on or before December 31, 2013 and  
36 (ii) 100% of the proceeds of the selling price thereafter. If,

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

7 With respect to 100% biodiesel, as defined in the Use Tax  
8 Act, and biodiesel blends, as defined in the Use Tax Act, with  
9 more than 10% but no more than 99% biodiesel, the tax imposed  
10 by this Act does not apply to the proceeds of the selling price  
11 of property transferred as an incident to the sale of service  
12 on or after July 1, 2003 and on or before December 31, 2013 but  
13 applies to 100% of the selling price thereafter.

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

24 The tax shall be imposed at the rate of 1% on food prepared  
25 for immediate consumption and transferred incident to a sale of  
26 service subject to this Act or the Service Occupation Tax Act  
27 by an entity licensed under the Hospital Licensing Act, the  
28 Nursing Home Care Act, or the Child Care Act of 1969. The tax  
29 shall also be imposed at the rate of 1% on food for human  
30 consumption that is to be consumed off the premises where it is  
31 sold (other than alcoholic beverages, soft drinks, and food  
32 that has been prepared for immediate consumption and is not  
33 otherwise included in this paragraph) and prescription and  
34 nonprescription medicines, drugs, medical appliances,  
35 modifications to a motor vehicle for the purpose of rendering  
36 it usable by a disabled person, and insulin, urine testing

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

14 Notwithstanding any other provisions of this Act, "food for  
15 human consumption that is to be consumed off the premises where  
16 it is sold" includes all food sold through a vending machine,  
17 except soft drinks and food products that are dispensed hot  
18 from a vending machine, regardless of the location of the  
19 vending machine.

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

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

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

30 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

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

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

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

19 Beginning on the effective date of this amendatory Act of  
20 the 94th General Assembly, with respect to motor fuel and  
21 gasohol taxed at a rate of 6.25%, the tax imposed under this  
22 Act may not exceed \$0.15 per gallon.

23 With respect to gasohol, as defined in the Use Tax Act, the  
24 tax imposed by this Act shall apply to (i) 70% of the cost  
25 price of property transferred as an incident to the sale of  
26 service on or after January 1, 1990, and before July 1, 2003,  
27 (ii) 80% of the selling price of property transferred as an  
28 incident to the sale of service on or after July 1, 2003 and on  
29 or before December 31, 2013, and (iii) 100% of the cost price  
30 thereafter. If, at any time, however, the tax under this Act on  
31 sales of gasohol, as defined in the Use Tax Act, is imposed at  
32 the rate of 1.25%, then the tax imposed by this Act applies to  
33 100% of the proceeds of sales of gasohol made during that time.

34 With respect to majority blended ethanol fuel, as defined  
35 in the Use Tax Act, the tax imposed by this Act does not apply  
36 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, 2013 but applies to 100% of the selling price  
3 thereafter.

4 With respect to biodiesel blends, as defined in the Use Tax  
5 Act, with no less than 1% and no more than 10% biodiesel, the  
6 tax imposed by this Act applies to (i) 80% of the selling price  
7 of property transferred as an incident to the sale of service  
8 on or after July 1, 2003 and on or before December 31, 2013 and  
9 (ii) 100% of the proceeds of the selling price thereafter. If,  
10 at any time, however, the tax under this Act on sales of  
11 biodiesel blends, as defined in the Use Tax Act, with no less  
12 than 1% and no more than 10% biodiesel is imposed at the rate  
13 of 1.25%, then the tax imposed by this Act applies to 100% of  
14 the proceeds of sales of biodiesel blends with no less than 1%  
15 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, 2013 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  
27 incident to the sales of service is less than 35%, or 75% in  
28 the case of servicemen transferring prescription drugs or  
29 servicemen engaged in graphic arts production, of the aggregate  
30 annual total gross receipts from all sales of service, the tax  
31 imposed by this Act shall be based on the serviceman's cost  
32 price of the tangible personal property transferred incident to  
33 the sale of those services.

34 The tax shall be imposed at the rate of 1% on food prepared  
35 for immediate consumption and transferred incident to a sale of  
36 service subject to this Act or the Service Occupation Tax Act

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

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

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

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

32 (35 ILCS 120/2-10) (from Ch. 120, par. 441-10)

33 Sec. 2-10. Rate of tax. Unless otherwise provided in this  
34 Section, the tax imposed by this Act is at the rate of 6.25% of

1 gross receipts from sales of tangible personal property made in  
2 the course of business.

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

7 Beginning on the effective date of this amendatory Act of  
8 the 94th General Assembly, with respect to motor fuel and  
9 gasohol taxed at a rate of 6.25%, the tax imposed under this  
10 Act may not exceed \$0.15 per gallon.

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

26 With respect to gasohol, as defined in the Use Tax Act, the  
27 tax imposed by this Act applies to (i) 70% of the proceeds of  
28 sales made on or after January 1, 1990, and before July 1,  
29 2003, (ii) 80% of the proceeds of sales made on or after July  
30 1, 2003 and on or before December 31, 2013, and (iii) 100% of  
31 the proceeds of sales made thereafter. If, at any time,  
32 however, the tax under this Act on sales of gasohol, as defined  
33 in the Use Tax Act, is imposed at the rate of 1.25%, then the  
34 tax imposed by this Act applies to 100% of the proceeds of  
35 sales of gasohol made during that time.

36 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 proceeds of sales made on or after July 1, 2003 and on or  
3 before December 31, 2013 but applies to 100% of the proceeds of  
4 sales made thereafter.

5 With respect to biodiesel blends, as defined in the Use Tax  
6 Act, with no less than 1% and no more than 10% biodiesel, the  
7 tax imposed by this Act applies to (i) 80% of the proceeds of  
8 sales made on or after July 1, 2003 and on or before December  
9 31, 2013 and (ii) 100% of the proceeds of sales made  
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, the tax imposed  
19 by this Act does not apply to the proceeds of sales made on or  
20 after July 1, 2003 and on or before December 31, 2013 but  
21 applies to 100% of the proceeds of sales made thereafter.

22 With respect to food for human consumption that is to be  
23 consumed off the premises where it is sold (other than  
24 alcoholic beverages, soft drinks, and food that has been  
25 prepared for immediate consumption) and prescription and  
26 nonprescription medicines, drugs, medical appliances,  
27 modifications to a motor vehicle for the purpose of rendering  
28 it usable by a disabled person, and insulin, urine testing  
29 materials, syringes, and needles used by diabetics, for human  
30 use, the tax is imposed at the rate of 1%. For the purposes of  
31 this Section, the term "soft drinks" means any complete,  
32 finished, ready-to-use, non-alcoholic drink, whether  
33 carbonated or not, including but not limited to soda water,  
34 cola, fruit juice, vegetable juice, carbonated water, and all  
35 other preparations commonly known as soft drinks of whatever  
36 kind or description that are contained in any closed or sealed

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

6 Notwithstanding any other provisions of this Act, "food for  
7 human consumption that is to be consumed off the premises where  
8 it is sold" includes all food sold through a vending machine,  
9 except soft drinks and food products that are dispensed hot  
10 from a vending machine, regardless of the location of the  
11 vending machine.

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

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law.