



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1388

Introduced 2/21/2007, by Rep. William B. Black

SYNOPSIS AS INTRODUCED:

30 ILCS 105/6z-18	from Ch. 127, par. 142z-18
30 ILCS 105/6z-20	from Ch. 127, par. 142z-20
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, beginning on July 1, 2007, with respect to motor fuel and gasohol the tax under the Acts is imposed at the rate of 1.25% (now, 6.25%). Effective immediately.

LRB095 09196 BDD 29389 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The State Finance Act is amended by changing
5 Sections 6z-18 and 6z-20 as follows:

6 (30 ILCS 105/6z-18) (from Ch. 127, par. 142z-18)

7 Sec. 6z-18. A portion of the money paid into the Local
8 Government Tax Fund from sales of food for human consumption
9 which is to be consumed off the premises where it is sold
10 (other than alcoholic beverages, soft drinks and food which has
11 been prepared for immediate consumption) and prescription and
12 nonprescription medicines, drugs, medical appliances and
13 insulin, urine testing materials, syringes and needles used by
14 diabetics, which occurred in municipalities, shall be
15 distributed to each municipality based upon the sales which
16 occurred in that municipality. The remainder shall be
17 distributed to each county based upon the sales which occurred
18 in the unincorporated area of that county.

19 A portion of the money paid into the Local Government Tax
20 Fund from the 6.25% general use tax rate on the selling price
21 of tangible personal property which is purchased outside
22 Illinois at retail from a retailer and which is titled or
23 registered by any agency of this State's government shall be

1 distributed to municipalities as provided in this paragraph.
2 Each municipality shall receive the amount attributable to
3 sales for which Illinois addresses for titling or registration
4 purposes are given as being in such municipality. The remainder
5 of the money paid into the Local Government Tax Fund from such
6 sales shall be distributed to counties. Each county shall
7 receive the amount attributable to sales for which Illinois
8 addresses for titling or registration purposes are given as
9 being located in the unincorporated area of such county.

10 A portion of the money paid into the Local Government Tax
11 Fund from the 6.25% general rate (and, beginning July 1, 2000
12 and through December 31, 2000 and beginning again on July 1,
13 2007, the 1.25% rate on motor fuel and gasohol) on sales
14 subject to taxation under the Retailers' Occupation Tax Act and
15 the Service Occupation Tax Act, which occurred in
16 municipalities, shall be distributed to each municipality,
17 based upon the sales which occurred in that municipality. The
18 remainder shall be distributed to each county, based upon the
19 sales which occurred in the unincorporated area of such county.

20 For the purpose of determining allocation to the local
21 government unit, a retail sale by a producer of coal or other
22 mineral mined in Illinois is a sale at retail at the place
23 where the coal or other mineral mined in Illinois is extracted
24 from the earth. This paragraph does not apply to coal or other
25 mineral when it is delivered or shipped by the seller to the
26 purchaser at a point outside Illinois so that the sale is

1 exempt under the United States Constitution as a sale in
2 interstate or foreign commerce.

3 Whenever the Department determines that a refund of money
4 paid into the Local Government Tax Fund should be made to a
5 claimant instead of issuing a credit memorandum, the Department
6 shall notify the State Comptroller, who shall cause the order
7 to be drawn for the amount specified, and to the person named,
8 in such notification from the Department. Such refund shall be
9 paid by the State Treasurer out of the Local Government Tax
10 Fund.

11 On or before the 25th day of each calendar month, the
12 Department shall prepare and certify to the Comptroller the
13 disbursement of stated sums of money to named municipalities
14 and counties, the municipalities and counties to be those
15 entitled to distribution of taxes or penalties paid to the
16 Department during the second preceding calendar month. The
17 amount to be paid to each municipality or county shall be the
18 amount (not including credit memoranda) collected during the
19 second preceding calendar month by the Department and paid into
20 the Local Government Tax Fund, plus an amount the Department
21 determines is necessary to offset any amounts which were
22 erroneously paid to a different taxing body, and not including
23 an amount equal to the amount of refunds made during the second
24 preceding calendar month by the Department, and not including
25 any amount which the Department determines is necessary to
26 offset any amounts which are payable to a different taxing body

1 but were erroneously paid to the municipality or county. Within
2 10 days after receipt, by the Comptroller, of the disbursement
3 certification to the municipalities and counties, provided for
4 in this Section to be given to the Comptroller by the
5 Department, the Comptroller shall cause the orders to be drawn
6 for the respective amounts in accordance with the directions
7 contained in such certification.

8 When certifying the amount of monthly disbursement to a
9 municipality or county under this Section, the Department shall
10 increase or decrease that amount by an amount necessary to
11 offset any misallocation of previous disbursements. The offset
12 amount shall be the amount erroneously disbursed within the 6
13 months preceding the time a misallocation is discovered.

14 The provisions directing the distributions from the
15 special fund in the State Treasury provided for in this Section
16 shall constitute an irrevocable and continuing appropriation
17 of all amounts as provided herein. The State Treasurer and
18 State Comptroller are hereby authorized to make distributions
19 as provided in this Section.

20 In construing any development, redevelopment, annexation,
21 preannexation or other lawful agreement in effect prior to
22 September 1, 1990, which describes or refers to receipts from a
23 county or municipal retailers' occupation tax, use tax or
24 service occupation tax which now cannot be imposed, such
25 description or reference shall be deemed to include the
26 replacement revenue for such abolished taxes, distributed from

1 the Local Government Tax Fund.

2 (Source: P.A. 90-491, eff. 1-1-98; 91-51, eff. 6-30-99; 91-872,
3 eff. 7-1-00.)

4 (30 ILCS 105/6z-20) (from Ch. 127, par. 142z-20)

5 Sec. 6z-20. Of the money received from the 6.25% general
6 rate (and, beginning July 1, 2000 and through December 31, 2000
7 and beginning again on July 1, 2007, the 1.25% rate on motor
8 fuel and gasohol) on sales subject to taxation under the
9 Retailers' Occupation Tax Act and Service Occupation Tax Act
10 and paid into the County and Mass Transit District Fund,
11 distribution to the Regional Transportation Authority tax
12 fund, created pursuant to Section 4.03 of the Regional
13 Transportation Authority Act, for deposit therein shall be made
14 based upon the retail sales occurring in a county having more
15 than 3,000,000 inhabitants. The remainder shall be distributed
16 to each county having 3,000,000 or fewer inhabitants based upon
17 the retail sales occurring in each such county.

18 For the purpose of determining allocation to the local
19 government unit, a retail sale by a producer of coal or other
20 mineral mined in Illinois is a sale at retail at the place
21 where the coal or other mineral mined in Illinois is extracted
22 from the earth. This paragraph does not apply to coal or other
23 mineral when it is delivered or shipped by the seller to the
24 purchaser at a point outside Illinois so that the sale is
25 exempt under the United States Constitution as a sale in

1 interstate or foreign commerce.

2 Of the money received from the 6.25% general use tax rate
3 on tangible personal property which is purchased outside
4 Illinois at retail from a retailer and which is titled or
5 registered by any agency of this State's government and paid
6 into the County and Mass Transit District Fund, the amount for
7 which Illinois addresses for titling or registration purposes
8 are given as being in each county having more than 3,000,000
9 inhabitants shall be distributed into the Regional
10 Transportation Authority tax fund, created pursuant to Section
11 4.03 of the Regional Transportation Authority Act. The
12 remainder of the money paid from such sales shall be
13 distributed to each county based on sales for which Illinois
14 addresses for titling or registration purposes are given as
15 being located in the county. Any money paid into the Regional
16 Transportation Authority Occupation and Use Tax Replacement
17 Fund from the County and Mass Transit District Fund prior to
18 January 14, 1991, which has not been paid to the Authority
19 prior to that date, shall be transferred to the Regional
20 Transportation Authority tax fund.

21 Whenever the Department determines that a refund of money
22 paid into the County and Mass Transit District Fund should be
23 made to a claimant instead of issuing a credit memorandum, the
24 Department shall notify the State Comptroller, who shall cause
25 the order to be drawn for the amount specified, and to the
26 person named, in such notification from the Department. Such

1 refund shall be paid by the State Treasurer out of the County
2 and Mass Transit District Fund.

3 On or before the 25th day of each calendar month, the
4 Department shall prepare and certify to the Comptroller the
5 disbursement of stated sums of money to the Regional
6 Transportation Authority and to named counties, the counties to
7 be those entitled to distribution, as hereinabove provided, of
8 taxes or penalties paid to the Department during the second
9 preceding calendar month. The amount to be paid to the Regional
10 Transportation Authority and each county having 3,000,000 or
11 fewer inhabitants shall be the amount (not including credit
12 memoranda) collected during the second preceding calendar
13 month by the Department and paid into the County and Mass
14 Transit District Fund, plus an amount the Department determines
15 is necessary to offset any amounts which were erroneously paid
16 to a different taxing body, and not including an amount equal
17 to the amount of refunds made during the second preceding
18 calendar month by the Department, and not including any amount
19 which the Department determines is necessary to offset any
20 amounts which were payable to a different taxing body but were
21 erroneously paid to the Regional Transportation Authority or
22 county. Within 10 days after receipt, by the Comptroller, of
23 the disbursement certification to the Regional Transportation
24 Authority and counties, provided for in this Section to be
25 given to the Comptroller by the Department, the Comptroller
26 shall cause the orders to be drawn for the respective amounts

1 in accordance with the directions contained in such
2 certification.

3 When certifying the amount of a monthly disbursement to the
4 Regional Transportation Authority or to a county under this
5 Section, the Department shall increase or decrease that amount
6 by an amount necessary to offset any misallocation of previous
7 disbursements. The offset amount shall be the amount
8 erroneously disbursed within the 6 months preceding the time a
9 misallocation is discovered.

10 The provisions directing the distributions from the
11 special fund in the State Treasury provided for in this Section
12 and from the Regional Transportation Authority tax fund created
13 by Section 4.03 of the Regional Transportation Authority Act
14 shall constitute an irrevocable and continuing appropriation
15 of all amounts as provided herein. The State Treasurer and
16 State Comptroller are hereby authorized to make distributions
17 as provided in this Section.

18 In construing any development, redevelopment, annexation,
19 preannexation or other lawful agreement in effect prior to
20 September 1, 1990, which describes or refers to receipts from a
21 county or municipal retailers' occupation tax, use tax or
22 service occupation tax which now cannot be imposed, such
23 description or reference shall be deemed to include the
24 replacement revenue for such abolished taxes, distributed from
25 the County and Mass Transit District Fund or Local Government
26 Distributive Fund, as the case may be.

1 (Source: P.A. 90-491, eff. 1-1-98; 91-872, eff. 7-1-00.)

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

4 (35 ILCS 105/3-10) (from Ch. 120, par. 439.3-10)

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

1 like kind and character in Illinois.

2 Beginning on July 1, 2000 and through December 31, 2000 and
3 beginning again July 1, 2007, with respect to motor fuel, as
4 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
5 as defined in Section 3-40 of the Use Tax Act, the tax is
6 imposed at the rate of 1.25%.

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

16 With respect to majority blended ethanol fuel, the tax
17 imposed by this Act does not apply to the proceeds of sales
18 made on or after July 1, 2003 and on or before December 31,
19 2013 but applies to 100% of the proceeds of sales made
20 thereafter.

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

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

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

10 With respect to food for human consumption that is to be
11 consumed off the premises where it is sold (other than
12 alcoholic beverages, soft drinks, and food that has been
13 prepared for immediate consumption) and prescription and
14 nonprescription medicines, drugs, medical appliances,
15 modifications to a motor vehicle for the purpose of rendering
16 it usable by a disabled person, and insulin, urine testing
17 materials, syringes, and needles used by diabetics, for human
18 use, the tax is imposed at the rate of 1%. For the purposes of
19 this Section, the term "soft drinks" means any complete,
20 finished, ready-to-use, non-alcoholic drink, whether
21 carbonated or not, including but not limited to soda water,
22 cola, fruit juice, vegetable juice, carbonated water, and all
23 other preparations commonly known as soft drinks of whatever
24 kind or description that are contained in any closed or sealed
25 bottle, can, carton, or container, regardless of size. "Soft
26 drinks" does not include coffee, tea, non-carbonated water,

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

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

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

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

18 Section 15. The Service Use Tax Act is amended by changing
19 Sections 3-10 and 9 as follows:

20 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

21 Sec. 3-10. Rate of tax. Unless otherwise provided in this
22 Section, the tax imposed by this Act is at the rate of 6.25% of
23 the selling price of tangible personal property transferred as
24 an incident to the sale of service, but, for the purpose of

1 computing this tax, in no event shall the selling price be less
2 than the cost price of the property to the serviceman.

3 Beginning on July 1, 2000 and through December 31, 2000 and
4 beginning again on July 1, 2007, with respect to motor fuel, as
5 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
6 as defined in Section 3-40 of the Use Tax Act, the tax is
7 imposed at the rate of 1.25%.

8 With respect to gasohol, as defined in the Use Tax Act, the
9 tax imposed by this Act applies to (i) 70% of the selling price
10 of property transferred as an incident to the sale of service
11 on or after January 1, 1990, and before July 1, 2003, (ii) 80%
12 of the selling price of property transferred as an incident to
13 the sale of service on or after July 1, 2003 and on or before
14 December 31, 2013, and (iii) 100% of the selling price
15 thereafter. If, at any time, however, the tax under this Act on
16 sales of gasohol, as defined in the Use Tax Act, is imposed at
17 the rate of 1.25%, then the tax imposed by this Act applies to
18 100% of the proceeds of sales of gasohol made during that time.

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

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

1 tax imposed by this Act applies to (i) 80% of the selling price
2 of property transferred as an incident to the sale of service
3 on or after July 1, 2003 and on or before December 31, 2013 and
4 (ii) 100% of the proceeds of the selling price thereafter. If,
5 at any time, however, the tax under this Act on sales of
6 biodiesel blends, as defined in the Use Tax Act, with no less
7 than 1% and no more than 10% biodiesel is imposed at the rate
8 of 1.25%, then the tax imposed by this Act applies to 100% of
9 the proceeds of sales of biodiesel blends with no less than 1%
10 and no more than 10% biodiesel made during that time.

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

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

1 incident to the sale of those services.

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

1 juice.

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

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

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

16 Section 20. The Service Occupation Tax Act is amended by
17 changing Sections 3-10 and 9 as follows:

18 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

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

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

13 Beginning on July 1, 2000 and through December 31, 2000 and
14 beginning again on July 1, 2007, with respect to motor fuel, as
15 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
16 as defined in Section 3-40 of the Use Tax Act, the tax is
17 imposed at the rate of 1.25%.

18 With respect to gasohol, as defined in the Use Tax Act, the
19 tax imposed by this Act shall apply to (i) 70% of the cost
20 price of property transferred as an incident to the sale of
21 service on or after January 1, 1990, and before July 1, 2003,
22 (ii) 80% of the selling price of property transferred as an
23 incident to the sale of service on or after July 1, 2003 and on
24 or before December 31, 2013, and (iii) 100% of the cost price
25 thereafter. If, at any time, however, the tax under this Act on
26 sales of gasohol, as defined in the Use Tax Act, is imposed at

1 the rate of 1.25%, then the tax imposed by this Act applies to
2 100% of the proceeds of sales of gasohol made during that time.

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

9 With respect to biodiesel blends, as defined in the Use Tax
10 Act, with no less than 1% and no more than 10% biodiesel, the
11 tax imposed by this Act applies to (i) 80% of the selling price
12 of property transferred as an incident to the sale of service
13 on or after July 1, 2003 and on or before December 31, 2013 and
14 (ii) 100% of the proceeds of the selling price thereafter. If,
15 at any time, however, the tax under this Act on sales of
16 biodiesel blends, as defined in the Use Tax Act, with no less
17 than 1% and no more than 10% biodiesel is imposed at the rate
18 of 1.25%, then the tax imposed by this Act applies to 100% of
19 the proceeds of sales of biodiesel blends with no less than 1%
20 and no more than 10% biodiesel made during that time.

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

1 December 31, 2013 but applies to 100% of the selling price
2 thereafter.

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

13 The tax shall be imposed at the rate of 1% on food prepared
14 for immediate consumption and transferred incident to a sale of
15 service subject to this Act or the Service Occupation Tax Act
16 by an entity licensed under the Hospital Licensing Act, the
17 Nursing Home Care Act, or the Child Care Act of 1969. The tax
18 shall also be imposed at the rate of 1% on food for human
19 consumption that is to be consumed off the premises where it is
20 sold (other than alcoholic beverages, soft drinks, and food
21 that has been prepared for immediate consumption and is not
22 otherwise included in this paragraph) and prescription and
23 nonprescription medicines, drugs, medical appliances,
24 modifications to a motor vehicle for the purpose of rendering
25 it usable by a disabled person, and insulin, urine testing
26 materials, syringes, and needles used by diabetics, for human

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

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

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

19 Section 25. The Retailers' Occupation Tax Act is amended by
20 changing Sections 2-10 and 3 as follows:

21 (35 ILCS 120/2-10) (from Ch. 120, par. 441-10)

22 Sec. 2-10. Rate of tax. Unless otherwise provided in this
23 Section, the tax imposed by this Act is at the rate of 6.25% of
24 gross receipts from sales of tangible personal property made in

1 the course of business.

2 Beginning on July 1, 2000 and through December 31, 2000 and
3 beginning again on July 1, 2007, with respect to motor fuel, as
4 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
5 as defined in Section 3-40 of the Use Tax Act, the tax is
6 imposed at the rate of 1.25%.

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

22 With respect to gasohol, as defined in the Use Tax Act, the
23 tax imposed by this Act applies to (i) 70% of the proceeds of
24 sales made on or after January 1, 1990, and before July 1,
25 2003, (ii) 80% of the proceeds of sales made on or after July
26 1, 2003 and on or before December 31, 2013, and (iii) 100% of

1 the proceeds of sales made thereafter. If, at any time,
2 however, the tax under this Act on sales of gasohol, as defined
3 in the Use Tax Act, is imposed at the rate of 1.25%, then the
4 tax imposed by this Act applies to 100% of the proceeds of
5 sales of gasohol made during that time.

6 With respect to majority blended ethanol fuel, as defined
7 in the Use Tax Act, the tax imposed by this Act does not apply
8 to the proceeds of sales made on or after July 1, 2003 and on or
9 before December 31, 2013 but applies to 100% of the proceeds of
10 sales made thereafter.

11 With respect to biodiesel blends, as defined in the Use Tax
12 Act, with no less than 1% and no more than 10% biodiesel, the
13 tax imposed by this Act applies to (i) 80% of the proceeds of
14 sales made on or after July 1, 2003 and on or before December
15 31, 2013 and (ii) 100% of the proceeds of sales made
16 thereafter. If, at any time, however, the tax under this Act on
17 sales of biodiesel blends, as defined in the Use Tax Act, with
18 no less than 1% and no more than 10% biodiesel is imposed at
19 the rate of 1.25%, then the tax imposed by this Act applies to
20 100% of the proceeds of sales of biodiesel blends with no less
21 than 1% and no more than 10% biodiesel made during that time.

22 With respect to 100% biodiesel, as defined in the Use Tax
23 Act, and biodiesel blends, as defined in the Use Tax Act, with
24 more than 10% but no more than 99% biodiesel, the tax imposed
25 by this Act does not apply to the proceeds of sales made on or
26 after July 1, 2003 and on or before December 31, 2013 but

1 applies to 100% of the proceeds of sales made thereafter.

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

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

1 vending machine.

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

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.