



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB6848

Introduced 4/13/2010, by Rep. Keith Farnham

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-6 new
35 ILCS 105/3-10
35 ILCS 120/2-8 new
35 ILCS 120/2-10

Amends the Use Tax Act and the Retailers' Occupation Tax Act. Provides that, from August 6, 2010 through August 15, 2010, and each year thereafter beginning on the first Friday in August and ending on the Sunday occurring 9 days thereafter, the tax imposed under the Acts on clothing and school supplies shall be at the rate of 1.25% (instead of 6.25%). Provides that the reduction is not authorized for periods after August 16, 2013. Effective immediately.

LRB096 21829 HLH 39751 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 Use Tax Act is amended by changing Section
5 3-10 and by adding Section 3-6 as follows:

6 (35 ILCS 105/3-6 new)

7 Sec. 3-6. Sales tax holiday items.

8 (a) The tangible personal property described in this
9 subsection qualifies for the 1.25% reduced rate of tax for the
10 period set forth in Section 3-10 of this Act (hereinafter
11 referred to as the Sales Tax Holiday Period). The reduced rate
12 on these items shall be administered under the provisions of
13 subsection (b) of this Section. The following items are subject
14 to the reduced rate:

15 (1) Clothing items that each have a retail selling
16 price of less than \$100.

17 "Clothing" means, unless otherwise specified in this
18 Section, all human wearing apparel suitable for general
19 use. "Clothing" does not include clothing accessories,
20 protective equipment, or sport or recreational equipment.
21 "Clothing" includes, but is not limited to: household and
22 shop aprons; athletic supporters; bathing suits and caps;
23 belts and suspenders; boots; coats and jackets; ear muffs;

1 footlets; gloves and mittens for general use; hats and
2 caps; hosiery; insoles for shoes; lab coats; neckties;
3 overshoes; pantyhose; rainwear; rubber pants; sandals;
4 scarves; shoes and shoelaces; slippers; sneakers; socks
5 and stockings; steel-toed shoes; underwear; and school
6 uniforms.

7 "Clothing accessories" means, but is not limited to:
8 briefcases; cosmetics; hair notions, including, but not
9 limited to barrettes, hair bows, and hair nets; handbags;
10 handkerchiefs; jewelry; non-prescription sunglasses;
11 umbrellas; wallets; watches; and wigs and hair pieces.

12 "Protective equipment" means, but is not limited to:
13 breathing masks; clean room apparel and equipment; ear and
14 hearing protectors; face shields; hard hats; helmets;
15 paint or dust respirators; protective gloves; safety
16 glasses and goggles; safety belts; tool belts; and welder's
17 gloves and masks.

18 "Sport or recreational equipment" means, but is not
19 limited to: ballet and tap shoes; cleated or spiked
20 athletic shoes; gloves, including, but not limited to,
21 baseball, bowling, boxing, hockey, and golf gloves;
22 goggles; hand and elbow guards; life preservers and vests;
23 mouth guards; roller and ice skates; shin guards; shoulder
24 pads; ski boots; waders; and wetsuits and fins.

25 (2) School supplies. "School supplies" means, unless
26 otherwise specified in this Section, items used by a

1 student in a course of study. The purchase of school
2 supplies for use by persons other than students for use in
3 a course of study are not eligible for the reduced rate of
4 tax. "School supplies" do not include school art supplies;
5 school instructional materials; cameras; film and memory
6 cards; videocameras, tapes, and videotapes; computers;
7 cell phones; Personal Digital Assistants (PDAs); handheld
8 electronic schedulers; and school computer supplies.

9 "School supplies" includes, but is not limited to:
10 binders; book bags; calculators; cellophane tape;
11 blackboard chalk; compasses; composition books; crayons;
12 erasers; expandable, pocket, plastic, and manila folders;
13 glue, paste, and paste sticks; highlighters; index cards;
14 index card boxes; legal pads; lunch boxes; markers;
15 notebooks; paper, including loose leaf ruled notebook
16 paper, copy paper, graph paper, tracing paper, manila
17 paper, colored paper, poster board, and construction
18 paper; pencils; pencil leads; pens; ink and ink refills for
19 pens; pencil boxes and other school supply boxes; pencil
20 sharpeners; protractors; rulers; scissors; and
21 writing-tablets.

22 "School art supply" means an item commonly used by a
23 student in a course of study for artwork and includes only
24 the following items: clay and glazes; acrylic, tempera, and
25 oil paint; paintbrushes for artwork; sketch and drawing
26 pads; and watercolors.

1 "School instructional material" means written material
2 commonly used by a student in a course of study as a
3 reference and to learn the subject being taught and
4 includes only the following items: reference books;
5 reference maps and globes; textbooks; and workbooks.

6 "School computer supply" means an item commonly used by
7 a student in a course of study in which a computer is used
8 and applies only to the following items: flashdrives and
9 other computer data storage devices; data storage media,
10 such as diskettes and compact disks; boxes and cases for
11 disk storage; external ports or drives; computer cases;
12 computer cables; computer printers; and printer
13 cartridges, toner, and ink.

14 (b) Administration. Notwithstanding any other provision of
15 this Act, the reduced rate of tax under Section 3-10 of this
16 Act for clothing and school supplies shall be administered by
17 the Department under the provisions of this subsection (b).

18 (1) Bundled sales. Items that qualify for the reduced
19 rate of tax that are bundled together with items that do
20 not qualify for the reduced rate of tax and that are sold
21 for one itemized price will be subject to the reduced rate
22 of tax only if the value of the items that qualify for the
23 reduced rate of tax exceeds the value of the items that do
24 not qualify for the reduced rate of tax.

25 (2) Coupons and discounts. An unreimbursed discount by
26 the seller reduces the sales price of the property so that

1 the discounted sales price determines whether the sales
2 price is within a sales tax holiday price threshold. A
3 coupon or other reduction in the sales price is treated as
4 a discount if the seller is not reimbursed for the coupon
5 or reduction amount by a third-party.

6 (3) Splitting of items normally sold together.
7 Articles that are normally sold as a single unit must
8 continue to be sold in that manner. Such articles cannot be
9 priced separately and sold as individual items in order to
10 obtain the reduced rate of tax. For example, a pair of
11 shoes cannot have each shoe sold separately so that the
12 sales price of each shoe is within a sales tax holiday
13 price threshold.

14 (4) Rain checks. A rain check is a procedure that
15 allows a customer to purchase an item at a certain price at
16 a later time because the particular item was out of stock.
17 Eligible property that customers purchase during the Sales
18 Tax Holiday Period with the use of a rain check will
19 qualify for the reduced rate of tax regardless of when the
20 rain check was issued. Issuance of a rain check during the
21 Sales Tax Holiday Period will not qualify eligible property
22 for the reduced rate of tax if the property is actually
23 purchased after the Sales Tax Holiday Period.

24 (5) Exchanges. The procedure for an exchange in regards
25 to a sales tax holiday is as follows:

26 (A) If a customer purchases an item of eligible

1 property during the Sales Tax Holiday Period, but later
2 exchanges the item for a similar eligible item, even if
3 a different size, different color, or other feature, no
4 additional tax is due even if the exchange is made
5 after the Sales Tax Holiday Period.

6 (B) If a customer purchases an item of eligible
7 property during the Sales Tax Holiday Period, but after
8 the Sales Tax Holiday Period has ended, the customer
9 returns the item and receives credit on the purchase of
10 a different item, the 6.25% general merchandise sales
11 tax rate is due on the sale of the newly purchased
12 item.

13 (C) If a customer purchases an item of eligible
14 property before the Sales Tax Holiday Period, but
15 during the Sales Tax Holiday Period the customer
16 returns the item and receives credit on the purchase of
17 a different item of eligible property, the reduced rate
18 of tax is due on the sale of the new item if the new
19 item is purchased during the Sales Tax Holiday Period.

20 (6) Delivery charges. Delivery charges, including
21 shipping, handling and service charges, are part of the
22 sales price of eligible property.

23 (7) Order date and back orders. For the purpose of a
24 sales tax holiday, eligible property qualifies for the
25 reduced rate of tax if: (i) the item is both delivered to
26 and paid for by the customer during the Sales Tax Holiday

1 Period or (ii) the customer orders and pays for the item
2 and the seller accepts the order during the Sales Tax
3 Holiday Period for immediate shipment, even if delivery is
4 made after the Sales Tax Holiday Period. The seller accepts
5 an order when the seller has taken action to fill the order
6 for immediate shipment. Actions to fill an order include
7 placement of an "in date" stamp on an order or assignment
8 of an "order number" to an order within the Sales Tax
9 Holiday Period. An order is for immediate shipment when the
10 customer does not request delayed shipment. An order is for
11 immediate shipment notwithstanding that the shipment may
12 be delayed because of a backlog of orders or because stock
13 is currently unavailable to, or on back order by, the
14 seller.

15 (8) Returns. For a 60-day period immediately after the
16 Sales Tax Holiday Period, if a customer returns an item
17 that would qualify for the reduced rate of tax, credit for
18 or refund of sales tax shall be given only at the reduced
19 rate unless the customer provides a receipt or invoice that
20 shows tax was paid at the 6.25% general merchandise rate,
21 or the seller has sufficient documentation to show that tax
22 was paid at the 6.25% general merchandise rate on the
23 specific item. This 60-day period is set solely for the
24 purpose of designating a time period during which the
25 customer must provide documentation that shows that the
26 appropriate sales tax rate was paid on returned

1 merchandise. The 60-day period is not intended to change a
2 seller's policy on the time period during which the seller
3 will accept returns.

4 (c) The Department may implement the provisions of this
5 Section through the use of emergency rules, along with
6 permanent rules filed concurrently with such emergency rules,
7 in accordance with the provisions of Section 5-45 of the
8 Illinois Administrative Procedure Act. For purposes of the
9 Illinois Administrative Procedure Act, the adoption of rules to
10 implement the provisions of this Section shall be deemed an
11 emergency and necessary for the public interest, safety, and
12 welfare.

13 (35 ILCS 105/3-10)

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 either the selling price or the fair market value, if any, of
17 the tangible personal property. In all cases where property
18 functionally used or consumed is the same as the property that
19 was purchased at retail, then the tax is imposed on the selling
20 price of the property. In all cases where property functionally
21 used or consumed is a by-product or waste product that has been
22 refined, manufactured, or produced from property purchased at
23 retail, then the tax is imposed on the lower of the fair market
24 value, if any, of the specific property so used in this State
25 or on the selling price of the property purchased at retail.

1 For purposes of this Section "fair market value" means the
2 price at which property would change hands between a willing
3 buyer and a willing seller, neither being under any compulsion
4 to buy or sell and both having reasonable knowledge of the
5 relevant facts. The fair market value shall be established by
6 Illinois sales by the taxpayer of the same property as that
7 functionally used or consumed, or if there are no such sales by
8 the taxpayer, then comparable sales or purchases of property of
9 like kind and character in Illinois.

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

14 Beginning on August 6, 2010 through August 15, 2010, and
15 each year thereafter beginning on the first Friday in August
16 and ending on the Sunday occurring 9 days thereafter, with
17 respect to sales tax holiday items as defined in Section 3-6 of
18 this Act, the tax is imposed at the rate of 1.25%. The reduced
19 rate of tax for sales tax holiday items as defined in Section
20 3-6 of this Act shall not be authorized for periods after
21 August 16, 2013.

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

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

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

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

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

25 With respect to food for human consumption that is to be
26 consumed off the premises where it is sold (other than

1 alcoholic beverages, soft drinks, and food that has been
2 prepared for immediate consumption) and prescription and
3 nonprescription medicines, drugs, medical appliances,
4 modifications to a motor vehicle for the purpose of rendering
5 it usable by a disabled person, and insulin, urine testing
6 materials, syringes, and needles used by diabetics, for human
7 use, the tax is imposed at the rate of 1%. For the purposes of
8 this Section, until September 1, 2009: the term "soft drinks"
9 means any complete, finished, ready-to-use, non-alcoholic
10 drink, whether carbonated or not, including but not limited to
11 soda water, cola, fruit juice, vegetable juice, carbonated
12 water, and all other preparations commonly known as soft drinks
13 of whatever kind or description that are contained in any
14 closed or sealed bottle, can, carton, or container, regardless
15 of size; but "soft drinks" does not include coffee, tea,
16 non-carbonated water, infant formula, milk or milk products as
17 defined in the Grade A Pasteurized Milk and Milk Products Act,
18 or drinks containing 50% or more natural fruit or vegetable
19 juice.

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

26 Until August 1, 2009, and notwithstanding any other

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

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

21 Notwithstanding any other provisions of this Act,
22 beginning September 1, 2009, "nonprescription medicines and
23 drugs" does not include grooming and hygiene products. For
24 purposes of this Section, "grooming and hygiene products"
25 includes, but is not limited to, soaps and cleaning solutions,
26 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan

1 lotions and screens, unless those products are available by
2 prescription only, regardless of whether the products meet the
3 definition of "over-the-counter-drugs". For the purposes of
4 this paragraph, "over-the-counter-drug" means a drug for human
5 use that contains a label that identifies the product as a drug
6 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
7 label includes:

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

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

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

19 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
20 eff. 7-13-09; revised 8-20-09.)

21 Section 10. The Retailers' Occupation Tax Act is amended by
22 changing Section 2-10 and by adding Section 2-8 as follows:

23 (35 ILCS 120/2-8 new)

24 Sec. 2-8. Sales tax holiday items.

1 (a) The tangible personal property described in this
2 subsection qualifies for the 1.25% reduced rate of tax for the
3 period set forth in Section 2-10 of this Act (hereinafter
4 referred to as the Sales Tax Holiday Period). The reduced rate
5 on these items shall be administered under the provisions of
6 subsection (b) of this Section. The following items are subject
7 to the reduced rate:

8 (1) Clothing items that each have a retail selling
9 price of less than \$100.

10 "Clothing" means, unless otherwise specified in this
11 Section, all human wearing apparel suitable for general
12 use. "Clothing" does not include clothing accessories,
13 protective equipment, or sport or recreational equipment.
14 "Clothing" includes, but is not limited to: household and
15 shop aprons; athletic supporters; bathing suits and caps;
16 belts and suspenders; boots; coats and jackets; ear muffs;
17 footlets; gloves and mittens for general use; hats and
18 caps; hosiery; insoles for shoes; lab coats; neckties;
19 overshoes; pantyhose; rainwear; rubber pants; sandals;
20 scarves; shoes and shoelaces; slippers; sneakers; socks
21 and stockings; steel-toed shoes; underwear; and school
22 uniforms.

23 "Clothing accessories" means, but is not limited to:
24 briefcases; cosmetics; hair notions, including, but not
25 limited to barrettes, hair bows, and hair nets; handbags;
26 handkerchiefs; jewelry; non-prescription sunglasses;

1 umbrellas; wallets; watches; and wigs and hair pieces.

2 "Protective equipment" means, but is not limited to:
3 breathing masks; clean room apparel and equipment; ear and
4 hearing protectors; face shields; hard hats; helmets;
5 paint or dust respirators; protective gloves; safety
6 glasses and goggles; safety belts; tool belts; and welder's
7 gloves and masks.

8 "Sport or recreational equipment" means, but is not
9 limited to: ballet and tap shoes; cleated or spiked
10 athletic shoes; gloves, including, but not limited to,
11 baseball, bowling, boxing, hockey, and golf gloves;
12 goggles; hand and elbow guards; life preservers and vests;
13 mouth guards; roller and ice skates; shin guards; shoulder
14 pads; ski boots; waders; and wetsuits and fins.

15 (2) School supplies. "School supplies" means, unless
16 otherwise specified in this Section, items used by a
17 student in a course of study. The purchase of school
18 supplies for use by persons other than students for use in
19 a course of study are not eligible for the reduced rate of
20 tax. "School supplies" do not include school art supplies;
21 school instructional materials; cameras; film and memory
22 cards; videocameras, tapes, and videotapes; computers;
23 cell phones; Personal Digital Assistants (PDAs); handheld
24 electronic schedulers; and school computer supplies.

25 "School supplies" includes, but is not limited to:
26 binders; book bags; calculators; cellophane tape;

1 blackboard chalk; compasses; composition books; crayons;
2 erasers; expandable, pocket, plastic, and manila folders;
3 glue, paste, and paste sticks; highlighters; index cards;
4 index card boxes; legal pads; lunch boxes; markers;
5 notebooks; paper, including loose leaf ruled notebook
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8 paper; pencils; pencil leads; pens; ink and ink refills for
9 pens; pencil boxes and other school supply boxes; pencil
10 sharpeners; protractors; rulers; scissors; and
11 writing-tablets.

12 "School art supply" means an item commonly used by a
13 student in a course of study for artwork and includes only
14 the following items: clay and glazes; acrylic, tempera, and
15 oil paint; paintbrushes for artwork; sketch and drawing
16 pads; and watercolors.

17 "School instructional material" means written material
18 commonly used by a student in a course of study as a
19 reference and to learn the subject being taught and
20 includes only the following items: reference books;
21 reference maps and globes; textbooks; and workbooks.

22 "School computer supply" means an item commonly used by
23 a student in a course of study in which a computer is used
24 and applies only to the following items: flashdrives and
25 other computer data storage devices; data storage media,
26 such as diskettes and compact disks; boxes and cases for

1 disk storage; external ports or drives; computer cases;
2 computer cables; computer printers; and printer
3 cartridges, toner, and ink.

4 (b) Administration. Notwithstanding any other provision of
5 this Act, the reduced rate of tax under Section 3-10 of this
6 Act for clothing and school supplies shall be administered by
7 the Department under the provisions of this subsection (b).

8 (1) Bundled sales. Items that qualify for the reduced
9 rate of tax that are bundled together with items that do
10 not qualify for the reduced rate of tax and that are sold
11 for one itemized price will be subject to the reduced rate
12 of tax only if the value of the items that qualify for the
13 reduced rate of tax exceeds the value of the items that do
14 not qualify for the reduced rate of tax.

15 (2) Coupons and discounts. An unreimbursed discount by
16 the seller reduces the sales price of the property so that
17 the discounted sales price determines whether the sales
18 price is within a sales tax holiday price threshold. A
19 coupon or other reduction in the sales price is treated as
20 a discount if the seller is not reimbursed for the coupon
21 or reduction amount by a third-party.

22 (3) Splitting of items normally sold together.
23 Articles that are normally sold as a single unit must
24 continue to be sold in that manner. Such articles cannot be
25 priced separately and sold as individual items in order to
26 obtain the reduced rate of tax. For example, a pair of

1 shoes cannot have each shoe sold separately so that the
2 sales price of each shoe is within a sales tax holiday
3 price threshold.

4 (4) Rain checks. A rain check is a procedure that
5 allows a customer to purchase an item at a certain price at
6 a later time because the particular item was out of stock.
7 Eligible property that customers purchase during the Sales
8 Tax Holiday Period with the use of a rain check will
9 qualify for the reduced rate of tax regardless of when the
10 rain check was issued. Issuance of a rain check during the
11 Sales Tax Holiday Period will not qualify eligible property
12 for the reduced rate of tax if the property is actually
13 purchased after the Sales Tax Holiday Period.

14 (5) Exchanges. The procedure for an exchange in regards
15 to a sales tax holiday is as follows:

16 (A) If a customer purchases an item of eligible
17 property during the Sales Tax Holiday Period, but later
18 exchanges the item for a similar eligible item, even if
19 a different size, different color, or other feature, no
20 additional tax is due even if the exchange is made
21 after the Sales Tax Holiday Period.

22 (B) If a customer purchases an item of eligible
23 property during the Sales Tax Holiday Period, but after
24 the Sales Tax Holiday Period has ended, the customer
25 returns the item and receives credit on the purchase of
26 a different item, the 6.25% general merchandise sales

1 tax rate is due on the sale of the newly purchased
2 item.

3 (C) If a customer purchases an item of eligible
4 property before the Sales Tax Holiday Period, but
5 during the Sales Tax Holiday Period the customer
6 returns the item and receives credit on the purchase of
7 a different item of eligible property, the reduced rate
8 of tax is due on the sale of the new item if the new
9 item is purchased during the Sales Tax Holiday Period.

10 (6) Delivery charges. Delivery charges, including
11 shipping, handling and service charges, are part of the
12 sales price of eligible property.

13 (7) Order date and back orders. For the purpose of a
14 sales tax holiday, eligible property qualifies for the
15 reduced rate of tax if: (i) the item is both delivered to
16 and paid for by the customer during the Sales Tax Holiday
17 Period or (ii) the customer orders and pays for the item
18 and the seller accepts the order during the Sales Tax
19 Holiday Period for immediate shipment, even if delivery is
20 made after the Sales Tax Holiday Period. The seller accepts
21 an order when the seller has taken action to fill the order
22 for immediate shipment. Actions to fill an order include
23 placement of an "in date" stamp on an order or assignment
24 of an "order number" to an order within the Sales Tax
25 Holiday Period. An order is for immediate shipment when the
26 customer does not request delayed shipment. An order is for

1 immediate shipment notwithstanding that the shipment may
2 be delayed because of a backlog of orders or because stock
3 is currently unavailable to, or on back order by, the
4 seller.

5 (8) Returns. For a 60-day period immediately after the
6 Sales Tax Holiday Period, if a customer returns an item
7 that would qualify for the reduced rate of tax, credit for
8 or refund of sales tax shall be given only at the reduced
9 rate unless the customer provides a receipt or invoice that
10 shows tax was paid at the 6.25% general merchandise rate,
11 or the seller has sufficient documentation to show that tax
12 was paid at the 6.25% general merchandise rate on the
13 specific item. This 60-day period is set solely for the
14 purpose of designating a time period during which the
15 customer must provide documentation that shows that the
16 appropriate sales tax rate was paid on returned
17 merchandise. The 60-day period is not intended to change a
18 seller's policy on the time period during which the seller
19 will accept returns.

20 (c) The Department may implement the provisions of this
21 Section through the use of emergency rules, along with
22 permanent rules filed concurrently with such emergency rules,
23 in accordance with the provisions of Section 5-45 of the
24 Illinois Administrative Procedure Act. For purposes of the
25 Illinois Administrative Procedure Act, the adoption of rules to
26 implement the provisions of this Section shall be deemed an

1 emergency and necessary for the public interest, safety, and
2 welfare.

3 (35 ILCS 120/2-10)

4 Sec. 2-10. Rate of tax. Unless otherwise provided in this
5 Section, the tax imposed by this Act is at the rate of 6.25% of
6 gross receipts from sales of tangible personal property made in
7 the course of business.

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

12 Beginning on August 6, 2010 through August 15, 2010, and
13 each year thereafter beginning on the first Friday in August
14 and ending on the Sunday occurring 9 days thereafter, with
15 respect to sales tax holiday items as defined in Section 2-8 of
16 this Act, the tax is imposed at the rate of 1.25%. The reduced
17 rate of tax for sales tax holiday items as defined in Section
18 2-8 of this Act shall not be authorized for periods after
19 August 16, 2013.

20 Within 14 days after the effective date of this amendatory
21 Act of the 91st General Assembly, each retailer of motor fuel
22 and gasohol shall cause the following notice to be posted in a
23 prominently visible place on each retail dispensing device that
24 is used to dispense motor fuel or gasohol in the State of
25 Illinois: "As of July 1, 2000, the State of Illinois has

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

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

20 With respect to majority blended ethanol fuel, as defined
21 in the Use Tax Act, the tax imposed by this Act does not apply
22 to the proceeds of sales made on or after July 1, 2003 and on or
23 before December 31, 2013 but applies to 100% of the proceeds of
24 sales made 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 proceeds of
2 sales made on or after July 1, 2003 and on or before December
3 31, 2013 and (ii) 100% of the proceeds of sales made
4 thereafter. If, at any time, however, the tax under this Act on
5 sales of biodiesel blends, as defined in the Use Tax Act, with
6 no less than 1% and no more than 10% biodiesel is imposed at
7 the rate of 1.25%, then the tax imposed by this Act applies to
8 100% of the proceeds of sales of biodiesel blends with no less
9 than 1% and no more than 10% biodiesel made during that time.

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

16 With respect to food for human consumption that is to be
17 consumed off the premises where it is sold (other than
18 alcoholic beverages, soft drinks, and food that has been
19 prepared for immediate consumption) and prescription and
20 nonprescription medicines, drugs, medical appliances,
21 modifications to a motor vehicle for the purpose of rendering
22 it usable by a disabled person, and insulin, urine testing
23 materials, syringes, and needles used by diabetics, for human
24 use, the tax is imposed at the rate of 1%. For the purposes of
25 this Section, until September 1, 2009: the term "soft drinks"
26 means any complete, finished, ready-to-use, non-alcoholic

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

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

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

1 products that are dispensed hot from a vending machine,
2 regardless of the location of the vending machine.

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

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

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

26 (B) A statement of the "active ingredient(s)" with a

1 list of those ingredients contained in the compound,
2 substance or preparation.

3 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
4 eff. 7-13-09; revised 8-20-09.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.