



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB6147

by Rep. Bill Mitchell - Adam Brown - Wayne Rosenthal - Dwight Kay - Sandy Cole, et al.

SYNOPSIS AS INTRODUCED:

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

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that the tax is imposed at the rate of 6.25% upon all sales of motor fuel and gasohol at a retail price of up to \$2.50 per gallon, and is imposed at the rate of 1.25% upon any portion of the retail price of motor fuel or gasohol that exceeds \$2.50 per gallon. Effective immediately.

LRB097 20978 HLH 68226 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning revenue.

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

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

6 (35 ILCS 105/3-10)

7 (Text of Section before amendment by P.A. 97-636)

8 Sec. 3-10. Rate of tax. Unless otherwise provided in this
9 Section, the tax imposed by this Act is at the rate of 6.25% of
10 either the selling price or the fair market value, if any, of
11 the tangible personal property. In all cases where property
12 functionally used or consumed is the same as the property that
13 was purchased at retail, then the tax is imposed on the selling
14 price of the property. In all cases where property functionally
15 used or consumed is a by-product or waste product that has been
16 refined, manufactured, or produced from property purchased at
17 retail, then the tax is imposed on the lower of the fair market
18 value, if any, of the specific property so used in this State
19 or on the selling price of the property purchased at retail.
20 For purposes of this Section "fair market value" means the
21 price at which property would change hands between a willing
22 buyer and a willing seller, neither being under any compulsion
23 to buy or sell and both having reasonable knowledge of the

1 relevant facts. The fair market value shall be established by
2 Illinois sales by the taxpayer of the same property as that
3 functionally used or consumed, or if there are no such sales by
4 the taxpayer, then comparable sales or purchases of property of
5 like kind and character in Illinois.

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 July 1, 2012, with respect to motor fuel, as
11 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
12 as defined in Section 3-40 of the Use Tax Act, the tax is
13 imposed at the rate of 6.25% upon all sales of motor fuel and
14 gasohol at a retail price of up to \$2.50 per gallon, and is
15 imposed at the rate of 1.25% upon any portion of the retail
16 price of motor fuel or gasohol that exceeds \$2.50 per gallon.

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

20 With respect to gasohol, the tax imposed by this Act
21 applies to (i) 70% of the proceeds of sales made on or after
22 January 1, 1990, and before July 1, 2003, (ii) 80% of the
23 proceeds of sales made on or after July 1, 2003 and on or
24 before December 31, 2013, and (iii) 100% of the proceeds of
25 sales made thereafter. If, at any time, however, the tax under
26 this Act on sales of gasohol is imposed at the rate of 1.25%,

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

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

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

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

23 With respect to food for human consumption that is to be
24 consumed off the premises where it is sold (other than
25 alcoholic beverages, soft drinks, and food that has been
26 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, until September 1, 2009: the term "soft drinks"
7 means any complete, finished, ready-to-use, non-alcoholic
8 drink, whether carbonated or not, including but not limited to
9 soda water, cola, fruit juice, vegetable juice, carbonated
10 water, and all other preparations commonly known as soft drinks
11 of whatever kind or description that are contained in any
12 closed or sealed bottle, can, carton, or container, regardless
13 of size; but "soft drinks" does not include coffee, tea,
14 non-carbonated water, infant formula, milk or milk products as
15 defined in the Grade A Pasteurized Milk and Milk Products Act,
16 or drinks containing 50% or more natural fruit or vegetable
17 juice.

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

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

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

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

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

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

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

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

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. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
18 eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1012, eff. 7-7-10.)

19 (Text of Section after amendment by P.A. 97-636)

20 Sec. 3-10. Rate of tax. Unless otherwise provided in this
21 Section, the tax imposed by this Act is at the rate of 6.25% of
22 either the selling price or the fair market value, if any, of
23 the tangible personal property. In all cases where property
24 functionally used or consumed is the same as the property that
25 was purchased at retail, then the tax is imposed on the selling

1 price of the property. In all cases where property functionally
2 used or consumed is a by-product or waste product that has been
3 refined, manufactured, or produced from property purchased at
4 retail, then the tax is imposed on the lower of the fair market
5 value, if any, of the specific property so used in this State
6 or on the selling price of the property purchased at retail.
7 For purposes of this Section "fair market value" means the
8 price at which property would change hands between a willing
9 buyer and a willing seller, neither being under any compulsion
10 to buy or sell and both having reasonable knowledge of the
11 relevant facts. The fair market value shall be established by
12 Illinois sales by the taxpayer of the same property as that
13 functionally used or consumed, or if there are no such sales by
14 the taxpayer, then comparable sales or purchases of property of
15 like kind and character in Illinois.

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

20 Beginning on July 1, 2012, with respect to motor fuel, as
21 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
22 as defined in Section 3-40 of the Use Tax Act, the tax is
23 imposed at the rate of 6.25% upon all sales of motor fuel and
24 gasohol at a retail price of up to \$2.50 per gallon, and is
25 imposed at the rate of 1.25% upon any portion of the retail
26 price of motor fuel or gasohol that exceeds \$2.50 per gallon.

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

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, 2018, 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 2018 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, 2018 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

1 1% and no more than 10% biodiesel made during that time.

2 With respect to 100% biodiesel and biodiesel blends with
3 more than 10% but no more than 99% biodiesel, the tax imposed
4 by this Act does not apply to the proceeds of sales made on or
5 after July 1, 2003 and on or before December 31, 2018 but
6 applies to 100% of the proceeds of sales made thereafter.

7 With respect to food for human consumption that is to be
8 consumed off the premises where it is sold (other than
9 alcoholic beverages, soft drinks, and food that has been
10 prepared for immediate consumption) and prescription and
11 nonprescription medicines, drugs, medical appliances,
12 modifications to a motor vehicle for the purpose of rendering
13 it usable by a disabled person, and insulin, urine testing
14 materials, syringes, and needles used by diabetics, for human
15 use, the tax is imposed at the rate of 1%. For the purposes of
16 this Section, until September 1, 2009: 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; but "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,
3 beginning September 1, 2009, "soft drinks" means non-alcoholic
4 beverages that contain natural or artificial sweeteners. "Soft
5 drinks" do not include beverages that contain milk or milk
6 products, soy, rice or similar milk substitutes, or greater
7 than 50% of vegetable or fruit juice by volume.

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

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

1 pieces. "Candy" does not include any preparation that contains
2 flour or requires refrigeration.

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

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

20 If the property that is purchased at retail from a retailer
21 is 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.

1 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
2 eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1012, eff. 7-7-10;
3 97-636, eff. 6-1-12.)

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

6 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

7 (Text of Section before amendment by P.A. 97-636)

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

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

18 Beginning on July 1, 2012, with respect to motor fuel, as
19 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
20 as defined in Section 3-40 of the Use Tax Act, the tax is
21 imposed at the rate of 6.25% upon all sales of motor fuel and
22 gasohol at a retail price of up to \$2.50 per gallon, and is
23 imposed at the rate of 1.25% upon any portion of the retail
24 price of motor fuel or gasohol that exceeds \$2.50 per gallon.

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

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

18 With respect to biodiesel blends, as defined in the Use Tax
19 Act, with no less than 1% and no more than 10% biodiesel, the
20 tax imposed by this Act applies to (i) 80% of the selling price
21 of property transferred as an incident to the sale of service
22 on or after July 1, 2003 and on or before December 31, 2013 and
23 (ii) 100% of the proceeds of the selling price thereafter. If,
24 at any time, however, the tax under this Act on sales of
25 biodiesel blends, as defined in the Use Tax Act, with no less
26 than 1% and no more than 10% biodiesel is imposed at the rate

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

4 With respect to 100% biodiesel, as defined in the Use Tax
5 Act, and biodiesel blends, as defined in the Use Tax Act, 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 the selling price
8 of property transferred as an incident to the sale of service
9 on or after July 1, 2003 and on or before December 31, 2013 but
10 applies to 100% of the selling price thereafter.

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

21 The tax shall be imposed at the rate of 1% on food prepared
22 for immediate consumption and transferred incident to a sale of
23 service subject to this Act or the Service Occupation Tax Act
24 by an entity licensed under the Hospital Licensing Act, the
25 Nursing Home Care Act, the ID/DD Community Care Act, the
26 Specialized Mental Health Rehabilitation Act, or the Child Care

1 Act of 1969. The tax shall also be imposed at the rate of 1% on
2 food for human consumption that is to be consumed off the
3 premises where it is sold (other than alcoholic beverages, soft
4 drinks, and food that has been prepared for immediate
5 consumption and is not otherwise included in this paragraph)
6 and prescription and nonprescription medicines, drugs, medical
7 appliances, modifications to a motor vehicle for the purpose of
8 rendering it usable by a disabled person, and insulin, urine
9 testing materials, syringes, and needles used by diabetics, for
10 human use. For the purposes of this Section, until September 1,
11 2009: the term "soft drinks" means any complete, finished,
12 ready-to-use, non-alcoholic drink, whether carbonated or not,
13 including but not limited to soda water, cola, fruit juice,
14 vegetable juice, carbonated water, and all other preparations
15 commonly known as soft drinks of whatever kind or description
16 that are contained in any closed or sealed bottle, can, carton,
17 or container, regardless of size; but "soft drinks" does not
18 include coffee, tea, non-carbonated water, infant formula,
19 milk or milk products as defined in the Grade A Pasteurized
20 Milk and Milk Products Act, or drinks containing 50% or more
21 natural fruit or vegetable juice.

22 Notwithstanding any other provisions of this Act,
23 beginning September 1, 2009, "soft drinks" means non-alcoholic
24 beverages that contain natural or artificial sweeteners. "Soft
25 drinks" do not include beverages that contain milk or milk
26 products, soy, rice or similar milk substitutes, or greater

1 than 50% of vegetable or fruit juice by volume.

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

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

23 Notwithstanding any other provisions of this Act,
24 beginning September 1, 2009, "nonprescription medicines and
25 drugs" does not include grooming and hygiene products. For
26 purposes of this Section, "grooming and hygiene products"

1 includes, but is not limited to, soaps and cleaning solutions,
2 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
3 lotions and screens, unless those products are available by
4 prescription only, regardless of whether the products meet the
5 definition of "over-the-counter-drugs". For the purposes of
6 this paragraph, "over-the-counter-drug" means a drug for human
7 use that contains a label that identifies the product as a drug
8 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
9 label includes:

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

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

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

21 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
22 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10; 97-38,
23 eff. 6-28-11; 97-227, eff. 1-1-12; revised 9-12-11.)

24 (Text of Section after amendment by P.A. 97-636)

25 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 July 1, 2012, with respect to motor fuel, as
11 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
12 as defined in Section 3-40 of the Use Tax Act, the tax is
13 imposed at the rate of 6.25% upon all sales of motor fuel and
14 gasohol at a retail price of up to \$2.50 per gallon, and is
15 imposed at the rate of 1.25% upon any portion of the retail
16 price of motor fuel or gasohol that exceeds \$2.50 per gallon.

17 With respect to gasohol, as defined in the Use Tax Act, the
18 tax imposed by this Act applies to (i) 70% of the selling price
19 of property transferred as an incident to the sale of service
20 on or after January 1, 1990, and before July 1, 2003, (ii) 80%
21 of 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, 2018, and (iii) 100% of the selling price
24 thereafter. If, at any time, however, the tax under this Act on
25 sales of gasohol, as defined in the Use Tax Act, is imposed at
26 the rate of 1.25%, then the tax imposed by this Act applies to

1 100% of the proceeds of sales of gasohol made during that time.

2 With respect to majority blended ethanol fuel, as defined
3 in the Use Tax Act, the tax imposed by this Act does not apply
4 to the selling price of property transferred as an incident to
5 the sale of service on or after July 1, 2003 and on or before
6 December 31, 2018 but applies to 100% of the selling price
7 thereafter.

8 With respect to biodiesel blends, as defined in the Use Tax
9 Act, with no less than 1% and no more than 10% biodiesel, the
10 tax imposed by this Act applies to (i) 80% 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, 2018 and
13 (ii) 100% of the proceeds of the selling price thereafter. If,
14 at any time, however, the tax under this Act on sales of
15 biodiesel blends, as defined in the Use Tax Act, with no less
16 than 1% and no more than 10% biodiesel is imposed at the rate
17 of 1.25%, then the tax imposed by this Act applies to 100% of
18 the proceeds of sales of biodiesel blends with no less than 1%
19 and no more than 10% biodiesel made during that time.

20 With respect to 100% biodiesel, as defined in the Use Tax
21 Act, and biodiesel blends, as defined in the Use Tax Act, with
22 more than 10% but no more than 99% biodiesel, the tax imposed
23 by this Act does not apply to the proceeds of the selling price
24 of property transferred as an incident to the sale of service
25 on or after July 1, 2003 and on or before December 31, 2018 but
26 applies to 100% of the selling price thereafter.

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

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

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

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

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

1 through a vending machine, except soft drinks, candy, and food
2 products that are dispensed hot from a vending machine,
3 regardless of the location of the vending machine.

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

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

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

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

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

11 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
12 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10; 97-38,
13 eff. 6-28-11; 97-227, eff. 1-1-12; 97-636, eff. 6-1-12.)

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

16 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

17 (Text of Section before amendment by P.A. 97-636)

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

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

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

16 Beginning on July 1, 2012, with respect to motor fuel, as
17 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
18 as defined in Section 3-40 of the Use Tax Act, the tax is
19 imposed at the rate of 6.25% upon all sales of motor fuel and
20 gasohol at a retail price of up to \$2.50 per gallon, and is
21 imposed at the rate of 1.25% upon any portion of the retail
22 price of motor fuel or gasohol that exceeds \$2.50 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,

1 (ii) 80% of the selling price of property transferred as an
2 incident to the sale of service on or after July 1, 2003 and on
3 or before December 31, 2013, and (iii) 100% of the cost price
4 thereafter. If, at any time, however, the tax under this Act on
5 sales of gasohol, as defined in the Use Tax Act, is imposed at
6 the rate of 1.25%, then the tax imposed by this Act applies to
7 100% of the proceeds of sales of gasohol made during that time.

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

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

26 With respect to 100% biodiesel, as defined in the Use Tax

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

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

18 The tax shall be imposed at the rate of 1% on food prepared
19 for immediate consumption and transferred incident to a sale of
20 service subject to this Act or the Service Occupation Tax Act
21 by an entity licensed under the Hospital Licensing Act, the
22 Nursing Home Care Act, the ID/DD Community Care Act, the
23 Specialized Mental Health Rehabilitation Act, or the Child Care
24 Act of 1969. The tax shall also be imposed at the rate of 1% on
25 food for human consumption that is to be consumed off the
26 premises where it is sold (other than alcoholic beverages, soft

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

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

25 Until August 1, 2009, and notwithstanding any other
26 provisions of this Act, "food for human consumption that is to

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

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

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

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

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

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

11 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
12 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10; 97-38,
13 eff. 6-28-11; 97-227, eff. 1-1-12; revised 9-12-11.)

14 (Text of Section after amendment by P.A. 97-636)

15 Sec. 3-10. Rate of tax. Unless otherwise provided in this
16 Section, the tax imposed by this Act is at the rate of 6.25% of
17 the "selling price", as defined in Section 2 of the Service Use
18 Tax Act, of the tangible personal property. For the purpose of
19 computing this tax, in no event shall the "selling price" be
20 less than the cost price to the serviceman of the tangible
21 personal property transferred. The selling price of each item
22 of tangible personal property transferred as an incident of a
23 sale of service may be shown as a distinct and separate item on
24 the serviceman's billing to the service customer. If the
25 selling price is not so shown, the selling price of the

1 tangible personal property is deemed to be 50% of the
2 serviceman's entire billing to the service customer. When,
3 however, a serviceman contracts to design, develop, and produce
4 special order machinery or equipment, the tax imposed by this
5 Act shall be based on the serviceman's cost price of the
6 tangible personal property transferred incident to the
7 completion of the contract.

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 July 1, 2012, with respect to motor fuel, as
13 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
14 as defined in Section 3-40 of the Use Tax Act, the tax is
15 imposed at the rate of 6.25% upon all sales of motor fuel and
16 gasohol at a retail price of up to \$2.50 per gallon, and is
17 imposed at the rate of 1.25% upon any portion of the retail
18 price of motor fuel or gasohol that exceeds \$2.50 per gallon.

19 With respect to gasohol, as defined in the Use Tax Act, the
20 tax imposed by this Act shall apply to (i) 70% of the cost
21 price of property transferred as an incident to the sale of
22 service on or after January 1, 1990, and before July 1, 2003,
23 (ii) 80% of the selling price of property transferred as an
24 incident to the sale of service on or after July 1, 2003 and on
25 or before December 31, 2018, and (iii) 100% of the cost price
26 thereafter. If, at any time, however, the tax under this Act on

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

4 With respect to majority blended ethanol fuel, as defined
5 in the Use Tax Act, the tax imposed by this Act does not apply
6 to the selling price of property transferred as an incident to
7 the sale of service on or after July 1, 2003 and on or before
8 December 31, 2018 but applies to 100% of the selling price
9 thereafter.

10 With respect to biodiesel blends, as defined in the Use Tax
11 Act, with no less than 1% and no more than 10% biodiesel, the
12 tax imposed by this Act applies to (i) 80% of the selling price
13 of property transferred as an incident to the sale of service
14 on or after July 1, 2003 and on or before December 31, 2018 and
15 (ii) 100% of the proceeds of the selling price thereafter. If,
16 at any time, however, the tax under this Act on sales of
17 biodiesel blends, as defined in the Use Tax Act, with no less
18 than 1% and no more than 10% biodiesel is imposed at the rate
19 of 1.25%, then the tax imposed by this Act applies to 100% of
20 the proceeds of sales of biodiesel blends with no less than 1%
21 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 material, the tax
25 imposed by this Act does not apply to the proceeds of the
26 selling price of property transferred as an incident to the

1 sale of service on or after July 1, 2003 and on or before
2 December 31, 2018 but applies to 100% of the selling price
3 thereafter.

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

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

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

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

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

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

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

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

1 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
2 label includes:

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

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

7 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
8 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10; 97-38,
9 eff. 6-28-11; 97-227, eff. 1-1-12; 97-636, eff. 6-1-12.)

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

12 (35 ILCS 120/2-10)

13 (Text of Section before amendment by P.A. 97-636)

14 Sec. 2-10. 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 gross receipts from sales of tangible personal property made in
17 the course of business.

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

22 Beginning on August 6, 2010 through August 15, 2010, with
23 respect to sales tax holiday items as defined in Section 2-8 of
24 this Act, the tax is imposed at the rate of 1.25%.

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

16 With respect to gasohol, as defined in the Use Tax Act, the
17 tax imposed by this Act applies to (i) 70% of the proceeds of
18 sales made on or after January 1, 1990, and before July 1,
19 2003, (ii) 80% of the proceeds of sales made on or after July
20 1, 2003 and on or before December 31, 2013, and (iii) 100% of
21 the proceeds of sales made thereafter. If, at any time,
22 however, the tax under this Act on sales of gasohol, as defined
23 in the Use Tax Act, is imposed at the rate of 1.25%, then the
24 tax imposed by this Act applies to 100% of the proceeds of
25 sales of gasohol made during that time.

26 Beginning on July 1, 2012, with respect to motor fuel, as

1 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
2 as defined in Section 3-40 of the Use Tax Act, the tax is
3 imposed at the rate of 6.25% upon all sales of motor fuel and
4 gasohol at a retail price of up to \$2.50 per gallon, and is
5 imposed at the rate of 1.25% upon any portion of the retail
6 price of motor fuel or gasohol that exceeds \$2.50 per gallon.

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

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

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

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

3 With respect to food for human consumption that is to be
4 consumed off the premises where it is sold (other than
5 alcoholic beverages, soft drinks, and food that has been
6 prepared for immediate consumption) and prescription and
7 nonprescription medicines, drugs, medical appliances,
8 modifications to a motor vehicle for the purpose of rendering
9 it usable by a disabled person, and insulin, urine testing
10 materials, syringes, and needles used by diabetics, for human
11 use, the tax is imposed at the rate of 1%. For the purposes of
12 this Section, until September 1, 2009: 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 bottle, can, carton, or container, regardless
19 of size; but "soft drinks" does not include coffee, tea,
20 non-carbonated water, infant formula, milk or milk products as
21 defined in the Grade A Pasteurized Milk and Milk Products Act,
22 or drinks containing 50% or more natural fruit or vegetable
23 juice.

24 Notwithstanding any other provisions of this Act,
25 beginning September 1, 2009, "soft drinks" means non-alcoholic
26 beverages that contain natural or artificial sweeteners. "Soft

1 drinks" do not include beverages that contain milk or milk
2 products, soy, rice or similar milk substitutes, or greater
3 than 50% of vegetable or fruit juice by volume.

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

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

25 Notwithstanding any other provisions of this Act,
26 beginning September 1, 2009, "nonprescription medicines and

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

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

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

16 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
17 eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1012, eff. 7-7-10.)

18 (Text of Section after amendment by P.A. 97-636)

19 Sec. 2-10. 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 gross receipts from sales of tangible personal property made in
22 the course of business.

23 Beginning on July 1, 2000 and through December 31, 2000,
24 with respect to motor fuel, as defined in Section 1.1 of the
25 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of

1 the Use Tax Act, the tax is imposed at the rate of 1.25%.

2 Beginning on August 6, 2010 through August 15, 2010, with
3 respect to sales tax holiday items as defined in Section 2-8 of
4 this Act, the tax is imposed at the rate of 1.25%.

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

20 With respect to gasohol, as defined in the Use Tax Act, the
21 tax imposed by this Act applies to (i) 70% of the proceeds of
22 sales made on or after January 1, 1990, and before July 1,
23 2003, (ii) 80% of the proceeds of sales made on or after July
24 1, 2003 and on or before December 31, 2018, and (iii) 100% of
25 the proceeds of sales made thereafter. If, at any time,
26 however, the tax under this Act on sales of gasohol, as defined

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

4 With respect to majority blended ethanol fuel, as defined
5 in the Use Tax Act, the tax imposed by this Act does not apply
6 to the proceeds of sales made on or after July 1, 2003 and on or
7 before December 31, 2018 but applies to 100% of the proceeds of
8 sales made 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 proceeds of
12 sales made on or after July 1, 2003 and on or before December
13 31, 2018 and (ii) 100% of the proceeds of sales made
14 thereafter. If, at any time, however, the tax under this Act on
15 sales of biodiesel blends, as defined in the Use Tax Act, with
16 no less than 1% and no more than 10% biodiesel 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 biodiesel blends with no less
19 than 1% and no more than 10% biodiesel made during that time.

20 Beginning on July 1, 2012, with respect to motor fuel, as
21 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,
22 as defined in Section 3-40 of the Use Tax Act, the tax is
23 imposed at the rate of 6.25% upon all sales of motor fuel and
24 gasohol at a retail price of up to \$2.50 per gallon, and is
25 imposed at the rate of 1.25% upon any portion of the retail
26 price of motor fuel or gasohol that exceeds \$2.50 per gallon.

1 With respect to 100% biodiesel, as defined in the Use Tax
2 Act, and biodiesel blends, as defined in the Use Tax Act, with
3 more than 10% but no more than 99% biodiesel, the tax imposed
4 by this Act does not apply to the proceeds of sales made on or
5 after July 1, 2003 and on or before December 31, 2018 but
6 applies to 100% of the proceeds of sales made thereafter.

7 With respect to food for human consumption that is to be
8 consumed off the premises where it is sold (other than
9 alcoholic beverages, soft drinks, and food that has been
10 prepared for immediate consumption) and prescription and
11 nonprescription medicines, drugs, medical appliances,
12 modifications to a motor vehicle for the purpose of rendering
13 it usable by a disabled person, and insulin, urine testing
14 materials, syringes, and needles used by diabetics, for human
15 use, the tax is imposed at the rate of 1%. For the purposes of
16 this Section, until September 1, 2009: 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; but "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,
3 beginning September 1, 2009, "soft drinks" means non-alcoholic
4 beverages that contain natural or artificial sweeteners. "Soft
5 drinks" do not include beverages that contain milk or milk
6 products, soy, rice or similar milk substitutes, or greater
7 than 50% of vegetable or fruit juice by volume.

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

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

1 pieces. "Candy" does not include any preparation that contains
2 flour or requires refrigeration.

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

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

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

20 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
21 eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1012, eff. 7-7-10;
22 97-636, eff. 6-1-12.)

23 Section 95. No acceleration or delay. Where this Act makes
24 changes in a statute that is represented in this Act by text
25 that is not yet or no longer in effect (for example, a Section

1 represented by multiple versions), the use of that text does
2 not accelerate or delay the taking effect of (i) the changes
3 made by this Act or (ii) provisions derived from any other
4 Public Act.

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