



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2669

Introduced 2/21/2013, by Rep. Kenneth Dunkin

SYNOPSIS AS INTRODUCED:

30 ILCS 105/6z-18	from Ch. 127, par. 142z-18
30 ILCS 105/6z-20	from Ch. 127, par. 142z-20
35 ILCS 105/3-10	
35 ILCS 120/2-10	

Amends the Use Tax Act and the Retailers' Occupation Tax Act. Provides that the sales tax holiday on school supplies created by Public Act 96-1012 applies during the third weekend in August of 2013 and each year thereafter. Amends the State Finance Act to make conforming changes. Effective immediately.

LRB098 07297 HLH 37360 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 State Finance Act is amended by changing
5 Sections 6z-18 and 6z-20 as follows:

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

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

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

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

10 A portion of the money paid into the Local Government Tax
11 Fund from the 6.25% general rate (and, beginning July 1, 2000
12 and through December 31, 2000, the 1.25% rate on motor fuel and
13 gasohol, and during the sales tax holiday period set forth in
14 Section 3-10 of the Use Tax Act and Section 2-8 of the
15 Retailers' Occupation Tax Act ~~beginning on August 6, 2010~~
16 ~~through August 15, 2010~~, the 1.25% rate on sales tax holiday
17 items) on sales subject to taxation under the Retailers'
18 Occupation Tax Act and the Service Occupation Tax Act, which
19 occurred in municipalities, shall be distributed to each
20 municipality, based upon the sales which occurred in that
21 municipality. The remainder shall be distributed to each
22 county, based upon the sales which occurred in the
23 unincorporated area of such county.

24 For the purpose of determining allocation to the local
25 government unit, a retail sale by a producer of coal or other
26 mineral mined in Illinois is a sale at retail at the place

1 where the coal or other mineral mined in Illinois is extracted
2 from the earth. This paragraph does not apply to coal or other
3 mineral when it is delivered or shipped by the seller to the
4 purchaser at a point outside Illinois so that the sale is
5 exempt under the United States Constitution as a sale in
6 interstate or foreign commerce.

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

15 As soon as possible after the first day of each month,
16 beginning January 1, 2011, upon certification of the Department
17 of Revenue, the Comptroller shall order transferred, and the
18 Treasurer shall transfer, to the STAR Bonds Revenue Fund the
19 local sales tax increment, as defined in the Innovation
20 Development and Economy Act, collected during the second
21 preceding calendar month for sales within a STAR bond district
22 and deposited into the Local Government Tax Fund, less 3% of
23 that amount, which shall be transferred into the Tax Compliance
24 and Administration Fund and shall be used by the Department,
25 subject to appropriation, to cover the costs of the Department
26 in administering the Innovation Development and Economy Act.

1 After the monthly transfer to the STAR Bonds Revenue Fund,
2 on or before the 25th day of each calendar month, the
3 Department shall prepare and certify to the Comptroller the
4 disbursement of stated sums of money to named municipalities
5 and counties, the municipalities and counties to be those
6 entitled to distribution of taxes or penalties paid to the
7 Department during the second preceding calendar month. The
8 amount to be paid to each municipality or county shall be the
9 amount (not including credit memoranda) collected during the
10 second preceding calendar month by the Department and paid into
11 the Local Government Tax Fund, plus an amount the Department
12 determines is necessary to offset any amounts which were
13 erroneously paid to a different taxing body, and not including
14 an amount equal to the amount of refunds made during the second
15 preceding calendar month by the Department, and not including
16 any amount which the Department determines is necessary to
17 offset any amounts which are payable to a different taxing body
18 but were erroneously paid to the municipality or county, and
19 not including any amounts that are transferred to the STAR
20 Bonds Revenue Fund. Within 10 days after receipt, by the
21 Comptroller, of the disbursement certification to the
22 municipalities and counties, provided for in this Section to be
23 given to the Comptroller by the Department, the Comptroller
24 shall cause the orders to be drawn for the respective amounts
25 in accordance with the directions contained in such
26 certification.

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

7 The provisions directing the distributions from the
8 special fund in the State Treasury provided for in this Section
9 shall constitute an irrevocable and continuing appropriation
10 of all amounts as provided herein. The State Treasurer and
11 State Comptroller are hereby authorized to make distributions
12 as provided in this Section.

13 In construing any development, redevelopment, annexation,
14 preannexation or other lawful agreement in effect prior to
15 September 1, 1990, which describes or refers to receipts from a
16 county or municipal retailers' occupation tax, use tax or
17 service occupation tax which now cannot be imposed, such
18 description or reference shall be deemed to include the
19 replacement revenue for such abolished taxes, distributed from
20 the Local Government Tax Fund.

21 (Source: P.A. 96-939, eff. 6-24-10; 96-1012, eff. 7-7-10;
22 97-333, eff. 8-12-11.)

23 (30 ILCS 105/6z-20) (from Ch. 127, par. 142z-20)

24 Sec. 6z-20. Of the money received from the 6.25% general
25 rate (and, beginning July 1, 2000 and through December 31,

1 2000, the 1.25% rate on motor fuel and gasohol, and during the
2 sales tax holiday period set forth in Section 3-10 of the Use
3 Tax Act and Section 2-8 of the Retailers' Occupation Tax Act
4 ~~beginning on August 6, 2010 through August 15, 2010~~, the 1.25%
5 rate on sales tax holiday items) on sales subject to taxation
6 under the Retailers' Occupation Tax Act and Service Occupation
7 Tax Act and paid into the County and Mass Transit District
8 Fund, distribution to the Regional Transportation Authority
9 tax fund, created pursuant to Section 4.03 of the Regional
10 Transportation Authority Act, for deposit therein shall be made
11 based upon the retail sales occurring in a county having more
12 than 3,000,000 inhabitants. The remainder shall be distributed
13 to each county having 3,000,000 or fewer inhabitants based upon
14 the retail sales occurring in each such county.

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

24 Of the money received from the 6.25% general use tax rate
25 on tangible personal property which is purchased outside
26 Illinois at retail from a retailer and which is titled or

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

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

25 As soon as possible after the first day of each month,
26 beginning January 1, 2011, upon certification of the Department

1 of Revenue, the Comptroller shall order transferred, and the
2 Treasurer shall transfer, to the STAR Bonds Revenue Fund the
3 local sales tax increment, as defined in the Innovation
4 Development and Economy Act, collected during the second
5 preceding calendar month for sales within a STAR bond district
6 and deposited into the County and Mass Transit District Fund,
7 less 3% of that amount, which shall be transferred into the Tax
8 Compliance and Administration Fund and shall be used by the
9 Department, subject to appropriation, to cover the costs of the
10 Department in administering the Innovation Development and
11 Economy Act.

12 After the monthly transfer to the STAR Bonds Revenue Fund,
13 on or before the 25th day of each calendar month, the
14 Department shall prepare and certify to the Comptroller the
15 disbursement of stated sums of money to the Regional
16 Transportation Authority and to named counties, the counties to
17 be those entitled to distribution, as hereinabove provided, of
18 taxes or penalties paid to the Department during the second
19 preceding calendar month. The amount to be paid to the Regional
20 Transportation Authority and each county having 3,000,000 or
21 fewer inhabitants shall be the amount (not including credit
22 memoranda) collected during the second preceding calendar
23 month by the Department and paid into the County and Mass
24 Transit District Fund, plus an amount the Department determines
25 is necessary to offset any amounts which were erroneously paid
26 to a different taxing body, and not including an amount equal

1 to the amount of refunds made during the second preceding
2 calendar month by the Department, and not including any amount
3 which the Department determines is necessary to offset any
4 amounts which were payable to a different taxing body but were
5 erroneously paid to the Regional Transportation Authority or
6 county, and not including any amounts that are transferred to
7 the STAR Bonds Revenue Fund. Within 10 days after receipt, by
8 the Comptroller, of the disbursement certification to the
9 Regional Transportation Authority and counties, provided for
10 in this Section to be given to the Comptroller by the
11 Department, the Comptroller shall cause the orders to be drawn
12 for the respective amounts in accordance with the directions
13 contained in such certification.

14 When certifying the amount of a monthly disbursement to the
15 Regional Transportation Authority or to a county under this
16 Section, the Department shall increase or decrease that amount
17 by an amount necessary to offset any misallocation of previous
18 disbursements. The offset amount shall be the amount
19 erroneously disbursed within the 6 months preceding the time a
20 misallocation is discovered.

21 The provisions directing the distributions from the
22 special fund in the State Treasury provided for in this Section
23 and from the Regional Transportation Authority tax fund created
24 by Section 4.03 of the Regional Transportation Authority Act
25 shall constitute an irrevocable and continuing appropriation
26 of all amounts as provided herein. The State Treasurer and

1 State Comptroller are hereby authorized to make distributions
2 as provided in this Section.

3 In construing any development, redevelopment, annexation,
4 preannexation or other lawful agreement in effect prior to
5 September 1, 1990, which describes or refers to receipts from a
6 county or municipal retailers' occupation tax, use tax or
7 service occupation tax which now cannot be imposed, such
8 description or reference shall be deemed to include the
9 replacement revenue for such abolished taxes, distributed from
10 the County and Mass Transit District Fund or Local Government
11 Distributive Fund, as the case may be.

12 (Source: P.A. 96-939, eff. 6-24-10; 96-1012, eff. 7-7-10;
13 97-333, eff. 8-12-11.)

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

16 (35 ILCS 105/3-10)

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

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

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 August 6, 2010 through August 15, 2010, and
19 during the third weekend in August of 2013 and each year
20 thereafter, with respect to sales tax holiday items as defined
21 in Section 3-6 of this Act, the tax is imposed at the rate of
22 1.25%.

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

1 before December 31, 2018, and (iii) 100% of the proceeds of
2 sales made thereafter. If, at any time, however, the tax under
3 this Act on sales of gasohol is imposed at the rate of 1.25%,
4 then the tax imposed by this Act applies to 100% of the
5 proceeds of sales of gasohol made during that time.

6 With respect to majority blended ethanol fuel, the tax
7 imposed by this Act does not apply to the proceeds of sales
8 made on or after July 1, 2003 and on or before December 31,
9 2018 but applies to 100% of the proceeds of sales made
10 thereafter.

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

21 With respect to 100% biodiesel and biodiesel blends 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 sales made on or
24 after July 1, 2003 and on or before December 31, 2018 but
25 applies to 100% of the proceeds of sales made thereafter.

26 With respect to food for human consumption that is to be

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

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

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

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

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

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

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

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

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

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

1 (35 ILCS 120/2-10)

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

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 August 6, 2010 through August 15, 2010, and
11 during the third weekend in August of 2013 and each year
12 thereafter, with respect to sales tax holiday items as defined
13 in Section 2-8 of this Act, the tax is imposed at the rate of
14 1.25%.

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

1 required sign through December 31, 2000 is guilty of a petty
2 offense for which the fine shall be \$500 per day per each
3 retail premises where a violation occurs.

4 With respect to gasohol, as defined in the Use Tax Act, the
5 tax imposed by this Act applies to (i) 70% of the proceeds of
6 sales made on or after January 1, 1990, and before July 1,
7 2003, (ii) 80% of the proceeds of sales made on or after July
8 1, 2003 and on or before December 31, 2018, and (iii) 100% of
9 the proceeds of sales made thereafter. If, at any time,
10 however, the tax under this Act on sales of gasohol, as defined
11 in the Use Tax Act, is imposed at the rate of 1.25%, then the
12 tax imposed by this Act applies to 100% of the proceeds of
13 sales of gasohol made during that time.

14 With respect to majority blended ethanol fuel, as defined
15 in the Use Tax Act, the tax imposed by this Act does not apply
16 to the proceeds of sales made on or after July 1, 2003 and on or
17 before December 31, 2018 but applies to 100% of the proceeds of
18 sales made thereafter.

19 With respect to biodiesel blends, as defined in the Use Tax
20 Act, with no less than 1% and no more than 10% biodiesel, the
21 tax imposed by this Act applies to (i) 80% of the proceeds of
22 sales made on or after July 1, 2003 and on or before December
23 31, 2018 and (ii) 100% of the proceeds of sales made
24 thereafter. If, at any time, however, the tax under this Act on
25 sales of biodiesel blends, as defined in the Use Tax Act, with
26 no less than 1% and no more than 10% biodiesel is imposed at

1 the rate of 1.25%, then the tax imposed by this Act applies to
2 100% of the proceeds of sales of biodiesel blends with no less
3 than 1% 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 sales made on or
8 after July 1, 2003 and on or before December 31, 2018 but
9 applies to 100% of the proceeds of sales made thereafter.

10 With respect to food for human consumption that is to be
11 consumed off the premises where it is sold (other than
12 alcoholic beverages, soft drinks, and food that has been
13 prepared for immediate consumption) and prescription and
14 nonprescription medicines, drugs, medical appliances,
15 modifications to a motor vehicle for the purpose of rendering
16 it usable by a disabled person, and insulin, urine testing
17 materials, syringes, and needles used by diabetics, for human
18 use, the tax is imposed at the rate of 1%. For the purposes of
19 this Section, until September 1, 2009: the term "soft drinks"
20 means any complete, finished, ready-to-use, non-alcoholic
21 drink, whether carbonated or not, including but not limited to
22 soda water, cola, fruit juice, vegetable juice, carbonated
23 water, and all other preparations commonly known as soft drinks
24 of whatever kind or description that are contained in any
25 closed or sealed bottle, can, carton, or container, regardless
26 of size; but "soft drinks" does not include coffee, tea,

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

5 Notwithstanding any other provisions of this Act,
6 beginning September 1, 2009, "soft drinks" means non-alcoholic
7 beverages that contain natural or artificial sweeteners. "Soft
8 drinks" do not include beverages that contain milk or milk
9 products, soy, rice or similar milk substitutes, or greater
10 than 50% of vegetable or fruit juice by volume.

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

23 Notwithstanding any other provisions of this Act,
24 beginning September 1, 2009, "food for human consumption that
25 is to be consumed off the premises where it is sold" does not
26 include candy. For purposes of this Section, "candy" means a

1 preparation of sugar, honey, or other natural or artificial
2 sweeteners in combination with chocolate, fruits, nuts or other
3 ingredients or flavorings in the form of bars, drops, or
4 pieces. "Candy" does not include any preparation that contains
5 flour or requires refrigeration.

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

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

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

23 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
24 eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1012, eff. 7-7-10;
25 97-636, eff. 6-1-12.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.