



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB2526

by Rep. Tom Demmer

#### 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 adult diapers sold as incontinence products are taxed at the rate of 1% (currently, 6.25%).

LRB101 05235 HLH 50248 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

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

6 (35 ILCS 105/3-10)

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

1 Illinois sales by the taxpayer of the same property as that  
2 functionally used or consumed, or if there are no such sales by  
3 the taxpayer, then comparable sales or purchases of property of  
4 like kind and character in Illinois.

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

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

12 With respect to gasohol, the tax imposed by this Act  
13 applies to (i) 70% of the proceeds of sales made on or after  
14 January 1, 1990, and before July 1, 2003, (ii) 80% of the  
15 proceeds of sales made on or after July 1, 2003 and on or  
16 before July 1, 2017, and (iii) 100% of the proceeds of sales  
17 made thereafter. If, at any time, however, the tax under this  
18 Act on sales of gasohol is imposed at the rate of 1.25%, then  
19 the tax imposed by this Act applies to 100% of the proceeds of  
20 sales of gasohol made during that time.

21 With respect to majority blended ethanol fuel, the tax  
22 imposed by this Act does not apply to the proceeds of sales  
23 made on or after July 1, 2003 and on or before December 31,  
24 2023 but applies to 100% of the proceeds of sales made  
25 thereafter.

26 With respect to biodiesel blends with no less than 1% and

1 no more than 10% biodiesel, the tax imposed by this Act applies  
2 to (i) 80% of the proceeds of sales made on or after July 1,  
3 2003 and on or before December 31, 2018 and (ii) 100% of the  
4 proceeds of sales made thereafter. If, at any time, however,  
5 the tax under this Act on sales of biodiesel blends with no  
6 less than 1% and no more than 10% biodiesel is imposed at the  
7 rate of 1.25%, then the tax imposed by this Act applies to 100%  
8 of the proceeds of sales of biodiesel blends with no less than  
9 1% and no more than 10% biodiesel made during that time.

10 With respect to 100% biodiesel and biodiesel blends with  
11 more than 10% but no more than 99% biodiesel, the tax imposed  
12 by this Act does not apply to the proceeds of sales made on or  
13 after July 1, 2003 and on or before December 31, 2023 but  
14 applies to 100% of the proceeds of sales made thereafter.

15 With respect to food for human consumption that is to be  
16 consumed off the premises where it is sold (other than  
17 alcoholic beverages, soft drinks, and food that has been  
18 prepared for immediate consumption) and prescription and  
19 nonprescription medicines, drugs, medical appliances, adult  
20 diapers sold as incontinence products, products classified as  
21 Class III medical devices by the United States Food and Drug  
22 Administration that are used for cancer treatment pursuant to a  
23 prescription, as well as any accessories and components related  
24 to those devices, modifications to a motor vehicle for the  
25 purpose of rendering it usable by a person with a disability,  
26 and insulin, urine testing materials, syringes, and needles

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

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

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

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

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

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

1 label includes:

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

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

6 Beginning on the effective date of this amendatory Act of  
7 the 98th General Assembly, "prescription and nonprescription  
8 medicines and drugs" includes medical cannabis purchased from a  
9 registered dispensing organization under the Compassionate Use  
10 of Medical Cannabis Pilot Program Act.

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

18 (Source: P.A. 99-143, eff. 7-27-15; 99-858, eff. 8-19-16;  
19 100-22, eff. 7-6-17.)

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

22 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

23 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
24 Section, the tax imposed by this Act is at the rate of 6.25% of

1 the selling price of tangible personal property transferred as  
2 an incident to the sale of service, but, for the purpose of  
3 computing this tax, in no event shall the selling price be less  
4 than the cost price of the property to the serviceman.

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

9 With respect to gasohol, as defined in the Use Tax Act, the  
10 tax imposed by this Act applies to (i) 70% of the selling price  
11 of property transferred as an incident to the sale of service  
12 on or after January 1, 1990, and before July 1, 2003, (ii) 80%  
13 of the selling price of property transferred as an incident to  
14 the sale of service on or after July 1, 2003 and on or before  
15 July 1, 2017, and (iii) 100% of the selling price thereafter.  
16 If, at any time, however, the tax under this Act on sales of  
17 gasohol, as defined in the Use Tax Act, is imposed at the rate  
18 of 1.25%, then the tax imposed by this Act applies to 100% of  
19 the proceeds of sales of gasohol made during that time.

20 With respect to majority blended ethanol fuel, as defined  
21 in the Use Tax Act, the tax imposed by this Act does not apply  
22 to the selling price of property transferred as an incident to  
23 the sale of service on or after July 1, 2003 and on or before  
24 December 31, 2023 but applies to 100% of the selling price  
25 thereafter.

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



1 Act, with no less than 1% and no more than 10% biodiesel, the  
2 tax imposed by this Act applies to (i) 80% of the selling price  
3 of property transferred as an incident to the sale of service  
4 on or after July 1, 2003 and on or before December 31, 2018 and  
5 (ii) 100% of the proceeds of the selling price thereafter. If,  
6 at any time, however, the tax under this Act on sales of  
7 biodiesel blends, as defined in the Use Tax Act, with no less  
8 than 1% and no more than 10% biodiesel is imposed at the rate  
9 of 1.25%, then the tax imposed by this Act applies to 100% of  
10 the proceeds of sales of biodiesel blends with no less than 1%  
11 and no more than 10% biodiesel made during that time.

12 With respect to 100% biodiesel, as defined in the Use Tax  
13 Act, and biodiesel blends, as defined in the Use Tax Act, with  
14 more than 10% but no more than 99% biodiesel, the tax imposed  
15 by this Act does not apply to the proceeds of the selling price  
16 of property transferred as an incident to the sale of service  
17 on or after July 1, 2003 and on or before December 31, 2023 but  
18 applies to 100% of the selling price thereafter.

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

1 price of the tangible personal property transferred as an  
2 incident to the sale of those services.

3 The tax shall be imposed at the rate of 1% on food prepared  
4 for immediate consumption and transferred incident to a sale of  
5 service subject to this Act or the Service Occupation Tax Act  
6 by an entity licensed under the Hospital Licensing Act, the  
7 Nursing Home Care Act, the ID/DD Community Care Act, the MC/DD  
8 Act, the Specialized Mental Health Rehabilitation Act of 2013,  
9 or the Child Care Act of 1969. The tax shall also be imposed at  
10 the rate of 1% on 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 is not otherwise  
14 included in this paragraph) and prescription and  
15 nonprescription medicines, drugs, medical appliances, adult  
16 diapers sold as incontinence products, products classified as  
17 Class III medical devices by the United States Food and Drug  
18 Administration that are used for cancer treatment pursuant to a  
19 prescription, as well as any accessories and components related  
20 to those devices, modifications to a motor vehicle for the  
21 purpose of rendering it usable by a person with a disability,  
22 and insulin, urine testing materials, syringes, and needles  
23 used by diabetics, for human use. For the purposes of this  
24 Section, until September 1, 2009: the term "soft drinks" means  
25 any complete, finished, ready-to-use, non-alcoholic drink,  
26 whether carbonated or not, including but not limited to soda

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

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

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

1 regardless of the location of the vending machine.

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

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

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

25 (B) A statement of the "active ingredient(s)" with a  
26 list of those ingredients contained in the compound,

1 substance or preparation.

2 Beginning on January 1, 2014 (the effective date of Public  
3 Act 98-122), "prescription and nonprescription medicines and  
4 drugs" includes medical cannabis purchased from a registered  
5 dispensing organization under the Compassionate Use of Medical  
6 Cannabis Pilot Program Act.

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

14 (Source: P.A. 99-143, eff. 7-27-15; 99-180, eff. 7-29-15;  
15 99-642, eff. 7-28-16; 99-858, eff. 8-19-16; 100-22, eff.  
16 7-6-17.)

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

19 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

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 the "selling price", as defined in Section 2 of the Service Use  
23 Tax Act, of the tangible personal property. For the purpose of  
24 computing this tax, in no event shall the "selling price" be

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

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 With respect to gasohol, as defined in the Use Tax Act, the  
19 tax imposed by this Act shall apply to (i) 70% of the cost  
20 price of property transferred as an incident to the sale of  
21 service on or after January 1, 1990, and before July 1, 2003,  
22 (ii) 80% of the selling price of property transferred as an  
23 incident to the sale of service on or after July 1, 2003 and on  
24 or before July 1, 2017, and (iii) 100% of the cost price  
25 thereafter. If, at any time, however, the tax under this Act on  
26 sales of gasohol, as defined in the Use Tax Act, is imposed at

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

3 With respect to majority blended ethanol fuel, as defined  
4 in the Use Tax Act, the tax imposed by this Act does not apply  
5 to the selling price of property transferred as an incident to  
6 the sale of service on or after July 1, 2003 and on or before  
7 December 31, 2023 but applies to 100% of the selling price  
8 thereafter.

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

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

1 December 31, 2023 but applies to 100% of the selling price  
2 thereafter.

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

13 The tax shall be imposed at the rate of 1% on food prepared  
14 for immediate consumption and transferred incident to a sale of  
15 service subject to this Act or the Service Occupation Tax Act  
16 by an entity licensed under the Hospital Licensing Act, the  
17 Nursing Home Care Act, the ID/DD Community Care Act, the MC/DD  
18 Act, the Specialized Mental Health Rehabilitation Act of 2013,  
19 or the Child Care Act of 1969. The tax shall also be imposed at  
20 the rate of 1% on food for human consumption that is to be  
21 consumed off the premises where it is sold (other than  
22 alcoholic beverages, soft drinks, and food that has been  
23 prepared for immediate consumption and is not otherwise  
24 included in this paragraph) and prescription and  
25 nonprescription medicines, drugs, medical appliances, adult  
26 diapers sold as incontinence products, products classified as



1 Class III medical devices by the United States Food and Drug  
2 Administration that are used for cancer treatment pursuant to a  
3 prescription, as well as any accessories and components related  
4 to those devices, modifications to a motor vehicle for the  
5 purpose of rendering it usable by a person with a disability,  
6 and insulin, urine testing materials, syringes, and needles  
7 used by diabetics, for human use. For the purposes of this  
8 Section, until September 1, 2009: the term "soft drinks" means  
9 any complete, finished, ready-to-use, non-alcoholic drink,  
10 whether carbonated or not, including but not limited to soda  
11 water, cola, fruit juice, vegetable juice, carbonated water,  
12 and all other preparations commonly known as soft drinks of  
13 whatever kind or description that are contained in any closed  
14 or sealed can, carton, or container, regardless of size; but  
15 "soft drinks" does not include coffee, tea, non-carbonated  
16 water, infant formula, milk or milk products as defined in the  
17 Grade A Pasteurized Milk and Milk Products Act, or drinks  
18 containing 50% or more 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 Beginning on January 1, 2014 (the effective date of Public  
12 Act 98-122), "prescription and nonprescription medicines and  
13 drugs" includes medical cannabis purchased from a registered  
14 dispensing organization under the Compassionate Use of Medical  
15 Cannabis Pilot Program Act.

16 (Source: P.A. 99-143, eff. 7-27-15; 99-180, eff. 7-29-15;  
17 99-642, eff. 7-28-16; 99-858, eff. 8-19-16; 100-22, eff.  
18 7-6-17.)

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

21 (35 ILCS 120/2-10)

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

1 the course of business.

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

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

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

24 With respect to gasohol, as defined in the Use Tax Act, the  
25 tax imposed by this Act applies to (i) 70% of the proceeds of  
26 sales made on or after January 1, 1990, and before July 1,

1 2003, (ii) 80% of the proceeds of sales made on or after July  
2 1, 2003 and on or before July 1, 2017, and (iii) 100% of the  
3 proceeds of sales made thereafter. If, at any time, however,  
4 the tax under this Act on sales of gasohol, as defined in the  
5 Use Tax Act, is imposed at the rate of 1.25%, then the tax  
6 imposed by this Act applies to 100% of the proceeds of sales of  
7 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 proceeds of sales made on or after July 1, 2003 and on or  
11 before December 31, 2023 but applies to 100% of the proceeds of  
12 sales made thereafter.

13 With respect to biodiesel blends, as defined in the Use Tax  
14 Act, with no less than 1% and no more than 10% biodiesel, the  
15 tax imposed by this Act applies to (i) 80% of the proceeds of  
16 sales made on or after July 1, 2003 and on or before December  
17 31, 2018 and (ii) 100% of the proceeds of sales made  
18 thereafter. If, at any time, however, the tax under this Act on  
19 sales of biodiesel blends, as defined in the Use Tax Act, with  
20 no less than 1% and no more than 10% biodiesel is imposed at  
21 the rate of 1.25%, then the tax imposed by this Act applies to  
22 100% of the proceeds of sales of biodiesel blends with no less  
23 than 1% and no more than 10% biodiesel made during that time.

24 With respect to 100% biodiesel, as defined in the Use Tax  
25 Act, and biodiesel blends, as defined in the Use Tax Act, with  
26 more than 10% but no more than 99% biodiesel, the tax imposed

1 by this Act does not apply to the proceeds of sales made on or  
2 after July 1, 2003 and on or before December 31, 2023 but  
3 applies to 100% of the proceeds of sales made thereafter.

4 With respect to food for human consumption that is to be  
5 consumed off the premises where it is sold (other than  
6 alcoholic beverages, soft drinks, and food that has been  
7 prepared for immediate consumption) and prescription and  
8 nonprescription medicines, drugs, medical appliances, adult  
9 diapers sold as incontinence products, products classified as  
10 Class III medical devices by the United States Food and Drug  
11 Administration that are used for cancer treatment pursuant to a  
12 prescription, as well as any accessories and components related  
13 to those devices, modifications to a motor vehicle for the  
14 purpose of rendering it usable by a person with a disability,  
15 and insulin, urine testing materials, syringes, and needles  
16 used by diabetics, for human use, the tax is imposed at the  
17 rate of 1%. For the purposes of this Section, until September  
18 1, 2009: the term "soft drinks" means any complete, finished,  
19 ready-to-use, non-alcoholic drink, whether carbonated or not,  
20 including but not limited to soda water, cola, fruit juice,  
21 vegetable juice, carbonated water, and all other preparations  
22 commonly known as soft drinks of whatever kind or description  
23 that are contained in any closed or sealed bottle, can, carton,  
24 or container, regardless of size; but "soft drinks" does not  
25 include coffee, tea, non-carbonated water, infant formula,  
26 milk or milk products as defined in the Grade A Pasteurized

1 Milk and Milk Products Act, or drinks containing 50% or more  
2 natural fruit or vegetable juice.

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

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

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

1 ingredients or flavorings in the form of bars, drops, or  
2 pieces. "Candy" does not include any preparation that contains  
3 flour or requires refrigeration.

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

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

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

21 Beginning on the effective date of this amendatory Act of  
22 the 98th General Assembly, "prescription and nonprescription  
23 medicines and drugs" includes medical cannabis purchased from a  
24 registered dispensing organization under the Compassionate Use  
25 of Medical Cannabis Pilot Program Act.

26 (Source: P.A. 99-143, eff. 7-27-15; 99-858, eff. 8-19-16;



HB2526

- 24 -

LRB101 05235 HLH 50248 b

1 100-22, eff. 7-6-17.)