



## 102ND GENERAL ASSEMBLY

### State of Illinois

### 2021 and 2022

#### HB4381

Introduced 1/21/2022, by Rep. Paul Jacobs, Tony McCombie and Chris Bos

#### 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. Reduces the rate of tax on diapers and baby wipes to 1% (currently, 6.25%). Makes various formatting changes.

LRB102 22272 HLH 31405 b

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  
14 functionally used or consumed is a by-product or waste product  
15 that has been refined, manufactured, or produced from property  
16 purchased at retail, then the tax is imposed on the lower of  
17 the fair market value, if any, of the specific property so used  
18 in this State or on the selling price of the property purchased  
19 at retail. For purposes of this Section "fair market value"  
20 means the price at which property would change hands between a  
21 willing buyer and a willing seller, neither being under any  
22 compulsion to buy or sell and both having reasonable knowledge  
23 of the relevant facts. The fair market value shall be

1 established by Illinois sales by the taxpayer of the same  
2 property as that functionally used or consumed, or if there  
3 are no such sales by the taxpayer, then comparable sales or  
4 purchases of property of 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 the following items, the tax is imposed at  
16 the rate of 1%:

17 (1) food for human consumption that is to be consumed  
18 off the premises where it is sold (other than alcoholic  
19 beverages, food consisting of or infused with adult use  
20 cannabis, soft drinks, and food that has been prepared for  
21 immediate consumption);

22 (2) prescription and nonprescription medicines, drugs,  
23 and medical appliances;

24 (3) products classified as Class III medical devices  
25 by the United States Food and Drug Administration that are  
26 used for cancer treatment pursuant to a prescription, as

1 well as any accessories and components related to those  
2 devices;

3 (4) modifications to a motor vehicle for the purpose  
4 of rendering it usable by a person with a disability;

5 (5) insulin, blood sugar testing materials, syringes,  
6 and needles used by human diabetics; and

7 (6) diapers and baby wipes. ~~food for human consumption~~  
8 ~~that is to be consumed off the premises where it is sold~~  
9 ~~(other than alcoholic beverages, food consisting of or~~  
10 ~~infused with adult use cannabis, soft drinks, and food~~  
11 ~~that has been prepared for immediate consumption) and~~  
12 ~~prescription and nonprescription medicines, drugs, medical~~  
13 ~~appliances, products classified as Class III medical~~  
14 ~~devices by the United States Food and Drug Administration~~  
15 ~~that are used for cancer treatment pursuant to a~~  
16 ~~prescription, as well as any accessories and components~~  
17 ~~related to those devices, modifications to a motor vehicle~~  
18 ~~for the purpose of rendering it usable by a person with a~~  
19 ~~disability, and insulin, blood sugar testing materials,~~  
20 ~~syringes, and needles used by human diabetics, the tax is~~  
21 ~~imposed at the rate of 1%.~~

22 For the purposes of this Section, until September 1, 2009:  
23 the term "soft drinks" means any complete, finished,  
24 ready-to-use, non-alcoholic drink, whether carbonated or not,  
25 including but not limited to soda water, cola, fruit juice,  
26 vegetable juice, carbonated water, and all other preparations

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

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

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

26 Notwithstanding any other provisions of this Act,

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

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

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

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

26 Beginning on the effective date of this amendatory Act of

1 the 98th General Assembly, "prescription and nonprescription  
2 medicines and drugs" includes medical cannabis purchased from  
3 a registered dispensing organization under the Compassionate  
4 Use of Medical Cannabis Program Act.

5 As used in this Section, "adult use cannabis" means  
6 cannabis subject to tax under the Cannabis Cultivation  
7 Privilege Tax Law and the Cannabis Purchaser Excise Tax Law  
8 and does not include cannabis subject to tax under the  
9 Compassionate Use of Medical Cannabis Program Act.

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

17 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;  
18 102-4, eff. 4-27-21.)

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

21 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

22 Sec. 3-10. 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 the selling price of tangible personal property transferred as



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

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

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

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

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

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

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

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

1 transferred as an incident to the sale of those services.

2 The tax shall be imposed at the rate of 1% on food prepared  
3 for immediate consumption and transferred incident to a sale  
4 of service subject to this Act or the Service Occupation Tax  
5 Act by an entity licensed under the Hospital Licensing Act,  
6 the Nursing Home Care Act, the Assisted Living and Shared  
7 Housing Act, the ID/DD Community Care Act, the MC/DD Act, the  
8 Specialized Mental Health Rehabilitation Act of 2013, or the  
9 Child Care Act of 1969, or an entity that holds a permit issued  
10 pursuant to the Life Care Facilities Act. The tax shall also be  
11 imposed at the rate of 1% on the following items:

12 (1) food for human consumption that is to be consumed  
13 off the premises where it is sold (other than alcoholic  
14 beverages, food consisting of or infused with adult use  
15 cannabis, soft drinks, and food that has been prepared for  
16 immediate consumption and is not otherwise included in  
17 this paragraph);

18 (2) prescription and nonprescription medicines, drugs,  
19 and medical appliances;

20 (3) products classified as Class III medical devices  
21 by the United States Food and Drug Administration that are  
22 used for cancer treatment pursuant to a prescription, as  
23 well as any accessories and components related to those  
24 devices;

25 (4) modifications to a motor vehicle for the purpose  
26 of rendering it usable by a person with a disability;

1           (5) insulin, blood sugar testing materials, syringes,  
2           and needles used by human diabetics; and

3           (6) diapers and baby wipes.

4     ~~food for human consumption that is to be consumed off the~~  
5     ~~premises where it is sold (other than alcoholic beverages,~~  
6     ~~food consisting of or infused with adult use cannabis, soft~~  
7     ~~drinks, and food that has been prepared for immediate~~  
8     ~~consumption and is not otherwise included in this paragraph)~~  
9     ~~and prescription and nonprescription medicines, drugs, medical~~  
10    ~~appliances, products classified as Class III medical devices~~  
11    ~~by the United States Food and Drug Administration that are~~  
12    ~~used for cancer treatment pursuant to a prescription, as well~~  
13    ~~as any accessories and components related to those devices,~~  
14    ~~modifications to a motor vehicle for the purpose of rendering~~  
15    ~~it usable by a person with a disability, and insulin, blood~~  
16    ~~sugar testing materials, syringes, and needles used by human~~  
17    ~~diabetics.~~

18           For the purposes of this Section, until September 1, 2009:  
19     the term "soft drinks" means any complete, finished,  
20     ready-to-use, non-alcoholic drink, whether carbonated or not,  
21     including but not limited to soda water, cola, fruit juice,  
22     vegetable juice, carbonated water, and all other preparations  
23     commonly known as soft drinks of whatever kind or description  
24     that are contained in any closed or sealed bottle, can,  
25     carton, or container, regardless of size; but "soft drinks"  
26     does not include coffee, tea, non-carbonated water, infant

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

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

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

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

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

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

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

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

22 Beginning on January 1, 2014 (the effective date of Public  
23 Act 98-122), "prescription and nonprescription medicines and  
24 drugs" includes medical cannabis purchased from a registered  
25 dispensing organization under the Compassionate Use of Medical  
26 Cannabis Program Act.

1           As used in this Section, "adult use cannabis" means  
2 cannabis subject to tax under the Cannabis Cultivation  
3 Privilege Tax Law and the Cannabis Purchaser Excise Tax Law  
4 and does not include cannabis subject to tax under the  
5 Compassionate Use of Medical Cannabis Program Act.

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

13           (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;  
14 102-4, eff. 4-27-21; 102-16, eff. 6-17-21.)

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

17           (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

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  
8 produce special order machinery or equipment, the tax imposed  
9 by this Act shall be based on the serviceman's cost price of  
10 the 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 With respect to gasohol, as defined in the Use Tax Act, the  
17 tax imposed by this Act shall apply to (i) 70% of the cost  
18 price of property transferred as an incident to the sale of  
19 service on or after January 1, 1990, and before July 1, 2003,  
20 (ii) 80% of the selling price of property transferred as an  
21 incident to the sale of service on or after July 1, 2003 and on  
22 or before July 1, 2017, and (iii) 100% of the cost price  
23 thereafter. If, at any time, however, the tax under this Act on  
24 sales of gasohol, as defined in the Use Tax Act, is imposed at  
25 the rate of 1.25%, then the tax imposed by this Act applies to  
26 100% of the proceeds of sales of gasohol made during that time.



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

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

19           With respect to 100% biodiesel, as defined in the Use Tax  
20 Act, and biodiesel blends, as defined in the Use Tax Act, with  
21 more than 10% but no more than 99% biodiesel material, the tax  
22 imposed by this Act does not apply to the proceeds of the  
23 selling price of property transferred as an incident to the  
24 sale of service on or after July 1, 2003 and on or before  
25 December 31, 2023 but applies to 100% of the selling price  
26 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  
7 aggregate annual total gross receipts from all sales of  
8 service, the tax imposed by this Act shall be based on the  
9 serviceman's cost price of the tangible personal property  
10 transferred 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  
13 of service subject to this Act or the Service Occupation Tax  
14 Act by an entity licensed under the Hospital Licensing Act,  
15 the Nursing Home Care Act, the Assisted Living and Shared  
16 Housing Act, the ID/DD Community Care Act, the MC/DD Act, the  
17 Specialized Mental Health Rehabilitation Act of 2013, or the  
18 Child Care Act of 1969, or an entity that holds a permit issued  
19 pursuant to the Life Care Facilities Act. The tax shall also be  
20 imposed at the rate of 1% on the following items:

21           (1) food for human consumption that is to be consumed  
22 off the premises where it is sold (other than alcoholic  
23 beverages, food consisting of or infused with adult use  
24 cannabis, soft drinks, and food that has been prepared for  
25 immediate consumption and is not otherwise included in  
26 this paragraph);

1           (2) prescription and nonprescription medicines, drugs,  
2           and medical appliances;

3           (3) products classified as Class III medical devices  
4           by the United States Food and Drug Administration that are  
5           used for cancer treatment pursuant to a prescription, as  
6           well as any accessories and components related to those  
7           devices;

8           (4) modifications to a motor vehicle for the purpose  
9           of rendering it usable by a person with a disability;

10          (5) insulin, blood sugar testing materials, syringes,  
11          and needles used by human diabetics; and

12          (6) diapers and baby wipes.

13       ~~food for human consumption that is to be consumed off the~~  
14       ~~premises where it is sold (other than alcoholic beverages,~~  
15       ~~food consisting of or infused with adult use cannabis, soft~~  
16       ~~drinks, and food that has been prepared for immediate~~  
17       ~~consumption and is not otherwise included in this paragraph)~~  
18       ~~and prescription and nonprescription medicines, drugs, medical~~  
19       ~~appliances, products classified as Class III medical devices~~  
20       ~~by the United States Food and Drug Administration that are~~  
21       ~~used for cancer treatment pursuant to a prescription, as well~~  
22       ~~as any accessories and components related to those devices,~~  
23       ~~modifications to a motor vehicle for the purpose of rendering~~  
24       ~~it usable by a person with a disability, and insulin, blood~~  
25       ~~sugar testing materials, syringes, and needles used by human~~  
26       ~~diabetics.~~

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

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

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

1 off the premises where it is sold" includes all food sold  
2 through a vending machine, except soft drinks, candy, and food  
3 products that are dispensed hot from a vending machine,  
4 regardless of the location of the vending machine.

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

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

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

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

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

10 As used in this Section, "adult use cannabis" means  
11 cannabis subject to tax under the Cannabis Cultivation  
12 Privilege Tax Law and the Cannabis Purchaser Excise Tax Law  
13 and does not include cannabis subject to tax under the  
14 Compassionate Use of Medical Cannabis Program Act.

15 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;  
16 102-4, eff. 4-27-21; 102-16, eff. 6-17-21.)

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

19 (35 ILCS 120/2-10)

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

24 Beginning on July 1, 2000 and through December 31, 2000,

1 with respect to motor fuel, as defined in Section 1.1 of the  
2 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
3 the Use Tax Act, the tax is imposed at the rate of 1.25%.

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

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

22 With respect to gasohol, as defined in the Use Tax Act, the  
23 tax imposed by this Act applies to (i) 70% of the proceeds of  
24 sales made on or after January 1, 1990, and before July 1,  
25 2003, (ii) 80% of the proceeds of sales made on or after July  
26 1, 2003 and on or before July 1, 2017, and (iii) 100% of the

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

6 With respect to majority blended ethanol fuel, as defined  
7 in the Use Tax Act, the tax imposed by this Act does not apply  
8 to the proceeds of sales made on or after July 1, 2003 and on  
9 or before December 31, 2023 but applies to 100% of the proceeds  
10 of sales made thereafter.

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

22 With respect to 100% biodiesel, as defined in the Use Tax  
23 Act, and biodiesel blends, as defined in the Use Tax Act, with  
24 more than 10% but no more than 99% biodiesel, the tax imposed  
25 by this Act does not apply to the proceeds of sales made on or  
26 after July 1, 2003 and on or before December 31, 2023 but



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

2 The tax is imposed at the rate of 1% on the following  
3 items:

4 (1) food for human consumption that is to be consumed  
5 off the premises where it is sold (other than alcoholic  
6 beverages, food consisting of or infused with adult use  
7 cannabis, soft drinks, and food that has been prepared for  
8 immediate consumption);

9 (2) prescription and nonprescription medicines, drugs,  
10 and medical appliances;

11 (3) products classified as Class III medical devices  
12 by the United States Food and Drug Administration that are  
13 used for cancer treatment pursuant to a prescription, as  
14 well as any accessories and components related to those  
15 devices;

16 (4) modifications to a motor vehicle for the purpose  
17 of rendering it usable by a person with a disability;

18 (5) insulin, blood sugar testing materials, syringes,  
19 and needles used by human diabetics; and

20 (6) diapers and baby wipes.

21 ~~With respect to food for human consumption that is to be~~  
22 ~~consumed off the premises where it is sold (other than~~  
23 ~~alcoholic beverages, food consisting of or infused with adult~~  
24 ~~use cannabis, soft drinks, and food that has been prepared for~~  
25 ~~immediate consumption) and prescription and nonprescription~~  
26 ~~medicines, drugs, medical appliances, 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~~  
3 ~~a prescription, as well as any accessories and components~~  
4 ~~related to those devices, modifications to a motor vehicle for~~  
5 ~~the purpose of rendering it usable by a person with a~~  
6 ~~disability, and insulin, blood sugar testing materials,~~  
7 ~~syringes, and needles used by human diabetics, the tax is~~  
8 ~~imposed at the rate of 1%.~~

9 For the purposes of this Section, until September 1, 2009:  
10 the term "soft drinks" means any complete, finished,  
11 ready-to-use, non-alcoholic drink, whether carbonated or not,  
12 including but not limited to soda water, cola, fruit juice,  
13 vegetable juice, carbonated water, and all other preparations  
14 commonly known as soft drinks of whatever kind or description  
15 that are contained in any closed or sealed bottle, can,  
16 carton, or container, regardless of size; but "soft drinks"  
17 does not include coffee, tea, non-carbonated water, infant  
18 formula, milk or milk products as defined in the Grade A  
19 Pasteurized Milk and Milk Products Act, or drinks containing  
20 50% or more natural fruit or vegetable 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  
19 other 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 Beginning on the effective date of this amendatory Act of  
14 the 98th General Assembly, "prescription and nonprescription  
15 medicines and drugs" includes medical cannabis purchased from  
16 a registered dispensing organization under the Compassionate  
17 Use of Medical Cannabis Program Act.

18 As used in this Section, "adult use cannabis" means  
19 cannabis subject to tax under the Cannabis Cultivation  
20 Privilege Tax Law and the Cannabis Purchaser Excise Tax Law  
21 and does not include cannabis subject to tax under the  
22 Compassionate Use of Medical Cannabis Program Act.

23 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;  
24 102-4, eff. 4-27-21.)