



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB5732

by Rep. Adam Niemerg

#### 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	
35 ILCS 505/2	from Ch. 120, par. 418
5 ILCS 100/5-45.21 new	

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that, beginning 30 days after the effective date of the amendatory Act and continuing through the last day of the fourth month after the effective date of the amendatory Act, the taxes imposed by those Acts do not apply to the proceeds of sales of: motor fuel; gasohol; majority blended ethanol fuel; biodiesel; and biodiesel blends. Amends the Motor Fuel Tax Act. Provides that no tax shall be imposed under this Act beginning 30 days after the effective date of the amendatory Act and continuing through the last day of the fourth month after the effective date of the amendatory Act. Amends the Illinois Administrative Procedure Act to authorize emergency rulemaking. Effective immediately.

LRB102 26939 HLH 38114 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 1. Short title. This Act may be cited as the Motor  
5 Fuel Tax Relief Act.

6 Section 5. The Use Tax Act is amended by changing Section  
7 3-10 as follows:

8 (35 ILCS 105/3-10)

9 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
10 Section, the tax imposed by this Act is at the rate of 6.25% of  
11 either the selling price or the fair market value, if any, of  
12 the tangible personal property. In all cases where property  
13 functionally used or consumed is the same as the property that  
14 was purchased at retail, then the tax is imposed on the selling  
15 price of the property. In all cases where property  
16 functionally used or consumed is a by-product or waste product  
17 that has been refined, manufactured, or produced from property  
18 purchased at retail, then the tax is imposed on the lower of  
19 the fair market value, if any, of the specific property so used  
20 in this State or on the selling price of the property purchased  
21 at retail. For purposes of this Section "fair market value"  
22 means the price at which property would change hands between a

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

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

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

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

24 With respect to majority blended ethanol fuel, the tax  
25 imposed by this Act does not apply to the proceeds of sales  
26 made on or after July 1, 2003 and on or before December 31,

1 2023 but applies to 100% of the proceeds of sales made  
2 thereafter.

3 With respect to biodiesel blends with no less than 1% and  
4 no more than 10% biodiesel, the tax imposed by this Act applies  
5 to (i) 80% of the proceeds of sales made on or after July 1,  
6 2003 and on or before December 31, 2018 and (ii) 100% of the  
7 proceeds of sales made thereafter. If, at any time, however,  
8 the tax under this Act on sales of biodiesel blends with no  
9 less than 1% and no more than 10% biodiesel is imposed at the  
10 rate of 1.25%, then the tax imposed by this Act applies to 100%  
11 of the proceeds of sales of biodiesel blends with no less than  
12 1% and no more than 10% biodiesel made during that time.

13 With respect to 100% biodiesel and biodiesel blends 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 sales made on or  
16 after July 1, 2003 and on or before December 31, 2023 but  
17 applies to 100% of the proceeds of sales made thereafter.

18 Beginning 30 days after the effective date of this  
19 amendatory Act of the 102nd General Assembly and continuing  
20 through the last day of the fourth month after the effective  
21 date of this amendatory Act of the 102nd General Assembly, the  
22 tax imposed by this Act does not apply to the proceeds of sales  
23 of: motor fuel, as defined in Section 1.1 of the Motor Fuel Tax  
24 Law; gasohol, as defined in Section 3-40 of this Act; majority  
25 blended ethanol fuel; biodiesel; and biodiesel blends.

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

25 Notwithstanding any other provisions of this Act,  
26 beginning September 1, 2009, "soft drinks" means non-alcoholic

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

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

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

26       Notwithstanding any other provisions of this Act,

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

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

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

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

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

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

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

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

12           (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

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

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

23           With respect to gasohol, as defined in the Use Tax Act, the  
24 tax imposed by this Act applies to (i) 70% of the selling price



1 of property transferred as an incident to the sale of service  
2 on or after January 1, 1990, and before July 1, 2003, (ii) 80%  
3 of 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 July 1, 2017, and (iii) 100% of the selling price thereafter.  
6 If, at any time, however, the tax under this Act on sales of  
7 gasohol, as defined in the Use Tax Act, is imposed at the rate  
8 of 1.25%, then the tax imposed by this Act applies to 100% of  
9 the proceeds of sales of gasohol made during that time.

10 With respect to majority blended ethanol fuel, as defined  
11 in the Use Tax Act, the tax imposed by this Act does not apply  
12 to 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 December 31, 2023 but applies to 100% of the selling price  
15 thereafter.

16 With respect to biodiesel blends, as defined in the Use  
17 Tax Act, with no less than 1% and no more than 10% biodiesel,  
18 the tax imposed by this Act applies to (i) 80% of the selling  
19 price of property transferred as an incident to the sale of  
20 service on or after July 1, 2003 and on or before December 31,  
21 2018 and (ii) 100% of the proceeds of the selling price  
22 thereafter. If, at any time, however, the tax under this Act on  
23 sales of biodiesel blends, as defined in the Use Tax Act, with  
24 no less than 1% and no more than 10% biodiesel 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 biodiesel blends with no less

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

2 With respect to 100% biodiesel, as defined in the Use Tax  
3 Act, and biodiesel blends, as defined in the Use Tax Act, with  
4 more than 10% but no more than 99% biodiesel, the tax imposed  
5 by this Act does not apply to the proceeds of the selling price  
6 of property transferred as an incident to the sale of service  
7 on or after July 1, 2003 and on or before December 31, 2023 but  
8 applies to 100% of the selling price thereafter.

9 Beginning 30 days after the effective date of this  
10 amendatory Act of the 102nd General Assembly and continuing  
11 through the last day of the fourth month after the effective  
12 date of this amendatory Act of the 102nd General Assembly, the  
13 tax imposed by this Act does not apply to the proceeds of the  
14 selling price of the following property transferred as an  
15 incident to the sale of service: motor fuel, as defined in  
16 Section 1.1 of the Motor Fuel Tax Law; gasohol, as defined in  
17 Section 3-40 of the Use Tax Act; majority blended ethanol  
18 fuel; biodiesel; and biodiesel blends.

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  
25 aggregate annual total gross receipts from all sales of  
26 service, the tax imposed by this Act shall be based on the

1 serviceman's cost price of the tangible personal property  
2 transferred as an 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  
5 of service subject to this Act or the Service Occupation Tax  
6 Act by an entity licensed under the Hospital Licensing Act,  
7 the Nursing Home Care Act, the Assisted Living and Shared  
8 Housing Act, the ID/DD Community Care Act, the MC/DD Act, the  
9 Specialized Mental Health Rehabilitation Act of 2013, or the  
10 Child Care Act of 1969, or an entity that holds a permit issued  
11 pursuant to the Life Care Facilities Act. The tax shall also be  
12 imposed at the rate of 1% on food for human consumption that is  
13 to be consumed off the premises where it is sold (other than  
14 alcoholic beverages, food consisting of or infused with adult  
15 use cannabis, soft drinks, and food that has been prepared for  
16 immediate consumption and is not otherwise included in this  
17 paragraph) and prescription and nonprescription medicines,  
18 drugs, medical appliances, products classified as Class III  
19 medical devices by the United States Food and Drug  
20 Administration that are used for cancer treatment pursuant to  
21 a prescription, as well as any accessories and components  
22 related to those devices, modifications to a motor vehicle for  
23 the purpose of rendering it usable by a person with a  
24 disability, and insulin, blood sugar testing materials,  
25 syringes, and needles used by human diabetics. For the  
26 purposes of this Section, until September 1, 2009: the term

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

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

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

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

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

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

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

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

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

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

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

21 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;  
22 102-4, eff. 4-27-21; 102-16, eff. 6-17-21.)

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

1 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

2 Sec. 3-10. 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 the "selling price", as defined in Section 2 of the Service Use  
5 Tax Act, of the tangible personal property. For the purpose of  
6 computing this tax, in no event shall the "selling price" be  
7 less than the cost price to the serviceman of the tangible  
8 personal property transferred. The selling price of each item  
9 of tangible personal property transferred as an incident of a  
10 sale of service may be shown as a distinct and separate item on  
11 the serviceman's billing to the service customer. If the  
12 selling price is not so shown, the selling price of the  
13 tangible personal property is deemed to be 50% of the  
14 serviceman's entire billing to the service customer. When,  
15 however, a serviceman contracts to design, develop, and  
16 produce special order machinery or equipment, the tax imposed  
17 by this Act shall be based on the serviceman's cost price of  
18 the tangible personal property transferred incident to the  
19 completion of the contract.

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

24 With respect to gasohol, as defined in the Use Tax Act, the  
25 tax imposed by this Act shall apply to (i) 70% of the cost  
26 price of property transferred as an incident to the sale of

1 service on or after January 1, 1990, and before July 1, 2003,  
2 (ii) 80% of the selling price of property transferred as an  
3 incident to the sale of service on or after July 1, 2003 and on  
4 or before July 1, 2017, and (iii) 100% of the cost price  
5 thereafter. If, at any time, however, the tax under this Act on  
6 sales of gasohol, as defined in the Use Tax Act, is imposed at  
7 the rate of 1.25%, then the tax imposed by this Act applies to  
8 100% of the proceeds of sales of gasohol made during that time.

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

15 With respect to biodiesel blends, as defined in the Use  
16 Tax Act, with no less than 1% and no more than 10% biodiesel,  
17 the tax imposed by this Act applies to (i) 80% of the selling  
18 price of property transferred as an incident to the sale of  
19 service on or after July 1, 2003 and on or before December 31,  
20 2018 and (ii) 100% of the proceeds of the selling price  
21 thereafter. If, at any time, however, the tax under this Act on  
22 sales of biodiesel blends, as defined in the Use Tax Act, with  
23 no less than 1% and no more than 10% biodiesel is imposed at  
24 the rate of 1.25%, then the tax imposed by this Act applies to  
25 100% of the proceeds of sales of biodiesel blends with no less  
26 than 1% and no more than 10% biodiesel made during that time.



1           With respect to 100% biodiesel, as defined in the Use Tax  
2 Act, and biodiesel blends, as defined in the Use Tax Act, with  
3 more than 10% but no more than 99% biodiesel material, the tax  
4 imposed by this Act does not apply to the proceeds of the  
5 selling price of property transferred as an incident to the  
6 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           Beginning 30 days after the effective date of this  
10 amendatory Act of the 102nd General Assembly and continuing  
11 through the last day of the fourth month after the effective  
12 date of this amendatory Act of the 102nd General Assembly, the  
13 tax imposed by this Act does not apply to the proceeds of the  
14 selling price of the following property transferred as an  
15 incident to the sale of service: motor fuel, as defined in  
16 Section 1.1 of the Motor Fuel Tax Law; gasohol, as defined in  
17 Section 3-40 of the Use Tax Act; majority blended ethanol  
18 fuel; biodiesel; and biodiesel blends.

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  
25 aggregate annual total gross receipts from all sales of  
26 service, the tax imposed by this Act shall be based on the

1 serviceman's cost price of the tangible personal property  
2 transferred 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  
5 of service subject to this Act or the Service Occupation Tax  
6 Act by an entity licensed under the Hospital Licensing Act,  
7 the Nursing Home Care Act, the Assisted Living and Shared  
8 Housing Act, the ID/DD Community Care Act, the MC/DD Act, the  
9 Specialized Mental Health Rehabilitation Act of 2013, or the  
10 Child Care Act of 1969, or an entity that holds a permit issued  
11 pursuant to the Life Care Facilities Act. The tax shall also be  
12 imposed at the rate of 1% on food for human consumption that is  
13 to be consumed off the premises where it is sold (other than  
14 alcoholic beverages, food consisting of or infused with adult  
15 use cannabis, soft drinks, and food that has been prepared for  
16 immediate consumption and is not otherwise included in this  
17 paragraph) and prescription and nonprescription medicines,  
18 drugs, medical appliances, products classified as Class III  
19 medical devices by the United States Food and Drug  
20 Administration that are used for cancer treatment pursuant to  
21 a prescription, as well as any accessories and components  
22 related to those devices, modifications to a motor vehicle for  
23 the purpose of rendering it usable by a person with a  
24 disability, and insulin, blood sugar testing materials,  
25 syringes, and needles used by human diabetics. For the  
26 purposes of this Section, until September 1, 2009: the term

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

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

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

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

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

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

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

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

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

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

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

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

18 (35 ILCS 120/2-10)

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

23 Beginning on July 1, 2000 and through December 31, 2000,  
24 with respect to motor fuel, as defined in Section 1.1 of the

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

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

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

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

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

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

10 With respect to biodiesel blends, as defined in the Use  
11 Tax Act, with no less than 1% and no more than 10% biodiesel,  
12 the tax imposed by this Act applies to (i) 80% of the proceeds  
13 of sales made on or after July 1, 2003 and on or before  
14 December 31, 2018 and (ii) 100% of the proceeds of sales made  
15 thereafter. If, at any time, however, the tax under this Act on  
16 sales of biodiesel blends, as defined in the Use Tax Act, with  
17 no less than 1% and no more than 10% biodiesel is imposed at  
18 the rate of 1.25%, then the tax imposed by this Act applies to  
19 100% of the proceeds of sales of biodiesel blends with no less  
20 than 1% 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, the tax imposed  
24 by this Act does not apply to the proceeds of sales made on or  
25 after July 1, 2003 and on or before December 31, 2023 but  
26 applies to 100% of the proceeds of sales made thereafter.

1 Beginning 30 days after the effective date of this  
2 amendatory Act of the 102nd General Assembly and continuing  
3 through the last day of the fourth month after the effective  
4 date of this amendatory Act of the 102nd General Assembly, the  
5 tax imposed by this Act does not apply to the proceeds of sales  
6 of: motor fuel, as defined in Section 1.1 of the Motor Fuel Tax  
7 Law; gasohol, as defined in Section 3-40 of the Use Tax Act;  
8 majority blended ethanol fuel; biodiesel; and biodiesel  
9 blends.

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, food consisting of or infused with adult  
13 use cannabis, soft drinks, and food that has been prepared for  
14 immediate consumption) and prescription and nonprescription  
15 medicines, drugs, medical appliances, products classified as  
16 Class III medical devices by the United States Food and Drug  
17 Administration that are used for cancer treatment pursuant to  
18 a prescription, as well as any accessories and components  
19 related to those devices, modifications to a motor vehicle for  
20 the purpose of rendering it usable by a person with a  
21 disability, and insulin, blood sugar testing materials,  
22 syringes, and needles used by human diabetics, the tax is  
23 imposed at the rate of 1%. For the purposes of this Section,  
24 until September 1, 2009: the term "soft drinks" means any  
25 complete, finished, ready-to-use, non-alcoholic drink, whether  
26 carbonated or not, including but not limited to soda water,



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

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

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

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

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

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

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

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

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

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

13           Section 25. The Motor Fuel Tax Law is amended by changing  
14 Section 2 as follows:

15           (35 ILCS 505/2) (from Ch. 120, par. 418)

16           Sec. 2. A tax is imposed on the privilege of operating  
17 motor vehicles upon the public highways and recreational-type  
18 watercraft upon the waters of this State.

19           (a) Prior to August 1, 1989, the tax is imposed at the rate  
20 of 13 cents per gallon on all motor fuel used in motor vehicles  
21 operating on the public highways and recreational type  
22 watercraft operating upon the waters of this State. Beginning  
23 on August 1, 1989 and until January 1, 1990, the rate of the  
24 tax imposed in this paragraph shall be 16 cents per gallon.

1 Beginning January 1, 1990 and until July 1, 2019, the rate of  
2 tax imposed in this paragraph, including the tax on compressed  
3 natural gas, shall be 19 cents per gallon. Beginning July 1,  
4 2019, the rate of tax imposed in this paragraph shall be 38  
5 cents per gallon and increased on July 1 of each subsequent  
6 year by an amount equal to the percentage increase, if any, in  
7 the Consumer Price Index for All Urban Consumers for all items  
8 published by the United States Department of Labor for the 12  
9 months ending in March of each year. The rate shall be rounded  
10 to the nearest one-tenth of one cent.

11 (b) Until July 1, 2019, the tax on the privilege of  
12 operating motor vehicles which use diesel fuel, liquefied  
13 natural gas, or propane shall be the rate according to  
14 paragraph (a) plus an additional 2 1/2 cents per gallon.  
15 Beginning July 1, 2019, the tax on the privilege of operating  
16 motor vehicles which use diesel fuel, liquefied natural gas,  
17 or propane shall be the rate according to subsection (a) plus  
18 an additional 7.5 cents per gallon. "Diesel fuel" is defined  
19 as any product intended for use or offered for sale as a fuel  
20 for engines in which the fuel is injected into the combustion  
21 chamber and ignited by pressure without electric spark.

22 (c) A tax is imposed upon the privilege of engaging in the  
23 business of selling motor fuel as a retailer or reseller on all  
24 motor fuel used in motor vehicles operating on the public  
25 highways and recreational type watercraft operating upon the  
26 waters of this State: (1) at the rate of 3 cents per gallon on

1 motor fuel owned or possessed by such retailer or reseller at  
2 12:01 a.m. on August 1, 1989; and (2) at the rate of 3 cents  
3 per gallon on motor fuel owned or possessed by such retailer or  
4 reseller at 12:01 A.M. on January 1, 1990.

5 Retailers and resellers who are subject to this additional  
6 tax shall be required to inventory such motor fuel and pay this  
7 additional tax in a manner prescribed by the Department of  
8 Revenue.

9 The tax imposed in this paragraph (c) shall be in addition  
10 to all other taxes imposed by the State of Illinois or any unit  
11 of local government in this State.

12 (d) Except as provided in Section 2a, the collection of a  
13 tax based on gallonage of gasoline used for the propulsion of  
14 any aircraft is prohibited on and after October 1, 1979, and  
15 the collection of a tax based on gallonage of special fuel used  
16 for the propulsion of any aircraft is prohibited on and after  
17 December 1, 2019.

18 (e) The collection of a tax, based on gallonage of all  
19 products commonly or commercially known or sold as 1-K  
20 kerosene, regardless of its classification or uses, is  
21 prohibited (i) on and after July 1, 1992 until December 31,  
22 1999, except when the 1-K kerosene is either: (1) delivered  
23 into bulk storage facilities of a bulk user, or (2) delivered  
24 directly into the fuel supply tanks of motor vehicles and (ii)  
25 on and after January 1, 2000. Beginning on January 1, 2000, the  
26 collection of a tax, based on gallonage of all products

1 commonly or commercially known or sold as 1-K kerosene,  
2 regardless of its classification or uses, is prohibited except  
3 when the 1-K kerosene is delivered directly into a storage  
4 tank that is located at a facility that has withdrawal  
5 facilities that are readily accessible to and are capable of  
6 dispensing 1-K kerosene into the fuel supply tanks of motor  
7 vehicles. For purposes of this subsection (e), a facility is  
8 considered to have withdrawal facilities that are not "readily  
9 accessible to and capable of dispensing 1-K kerosene into the  
10 fuel supply tanks of motor vehicles" only if the 1-K kerosene  
11 is delivered from: (i) a dispenser hose that is short enough so  
12 that it will not reach the fuel supply tank of a motor vehicle  
13 or (ii) a dispenser that is enclosed by a fence or other  
14 physical barrier so that a vehicle cannot pull alongside the  
15 dispenser to permit fueling.

16 Any person who sells or uses 1-K kerosene for use in motor  
17 vehicles upon which the tax imposed by this Law has not been  
18 paid shall be liable for any tax due on the sales or use of 1-K  
19 kerosene.

20 (f) No tax shall be imposed under this Act beginning 30  
21 days after the effective date of this amendatory Act of the  
22 102nd General Assembly and continuing through the last day of  
23 the fourth month after the effective date of this amendatory  
24 Act of the 102nd General Assembly. No return is due under this  
25 Act if the tax is suspended under this subsection (f) for the  
26 entire period of the return.

1 (Source: P.A. 100-9, eff. 7-1-17; 101-10, eff. 6-5-19; 101-32,  
2 eff. 6-28-19; 101-604, eff. 12-13-19.)

3 Section 30. The Illinois Administrative Procedure Act is  
4 amended by adding Section 5-45.21 as follows:

5 (5 ILCS 100/5-45.21 new)

6 Sec. 5-45.21. Emergency rulemaking; motor fuel. To provide  
7 for the expeditious and timely implementation of this  
8 amendatory Act of the 102nd General Assembly, emergency rules  
9 implementing this amendatory Act of the 102nd General Assembly  
10 may be adopted in accordance with Section 5-45 by the  
11 Department of Revenue. The adoption of emergency rules  
12 authorized by Section 5-45 and this Section is deemed to be  
13 necessary for the public interest, safety, and welfare.

14 This Section is repealed one year after the effective date  
15 of this amendatory Act of the 102nd General Assembly.

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law.