



## 102ND GENERAL ASSEMBLY

### State of Illinois

### 2021 and 2022

### SB2394

Introduced 2/26/2021, by Sen. Patrick J. Joyce

#### SYNOPSIS AS INTRODUCED:

New Act

35 ILCS 105/3-10

35 ILCS 110/3-10

35 ILCS 115/3-10

35 ILCS 120/2-10

from Ch. 120, par. 439.33-10

from Ch. 120, par. 439.103-10

Creates the Illinois Renewable Fuel Standards Act. Provides that diesel fuel must contain at least a stated percentage of biodiesel fuel oil by volume on and after a specified date. Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Makes changes concerning incentives for biodiesel to provide that the current exemptions for 100% biodiesel and biodiesel blends with more than 10% but no more than 99% biodiesel sunset on December 31, 2021. Provides that, with respect to 100% biodiesel and biodiesel blends with more than 20% but no more than 99% biodiesel, the taxes do not apply to proceeds of sales made on or after January 1, 2022 and on or before June 30, 2024 but apply 100% of the proceeds of sales made thereafter. Effective immediately, except that provisions creating the Illinois Renewable Fuel Standards Act take effect on July 1, 2021.

LRB102 16502 HLH 21895 b

1 AN ACT concerning biodiesel.

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

4 ARTICLE 5. ILLINOIS RENEWABLE FUEL STANDARDS ACT

5 Section 5-1. Short title. This Act may be cited as the  
6 Illinois Renewable Fuel Standards Act. References in this  
7 Article to "this Act" mean this Article.

8 Section 5-5. Definitions.

9 "Biodiesel" means a renewable diesel fuel derived from  
10 biomass that is intended for use in diesel engines.

11 "Biodiesel blend" means a blend of biodiesel with  
12 petroleum-based diesel fuel in which the resultant product  
13 contains no less than 1% and no more than 99% biodiesel.

14 "Department" means the Department of Agriculture.

15 "Director" means the Director of Agriculture.

16 Section 5-10. Minimum content.

17 (a) Except as otherwise provided in this Section, all  
18 diesel fuel sold or offered for sale in Illinois for use in  
19 internal combustion engines must contain at least the stated  
20 percentage of biodiesel fuel oil by volume on and after the  
21 following dates:

1 (1) on and after July 1, 2021 and prior to July 1,  
2 2024: 5%; and

3 (2) on and after July 1, 2024: 20%.

4 (b) The minimum content levels in paragraph (2) of  
5 subsection (a) become effective on the date specified only if  
6 the Director implements administrative rules at least 270 days  
7 prior to the date of the scheduled increase, that all of the  
8 following conditions have been met, and the State is prepared  
9 to move to the scheduled minimum content level:

10 (1) an American Society for Testing and Materials  
11 specification or equivalent federal standard exists for  
12 the next minimum diesel-biodiesel blend;

13 (2) a sufficient supply of biodiesel is available, and  
14 the amount of biodiesel produced in this State from  
15 feedstock with at least 75% that is produced in the United  
16 States is equal to at least 50% of anticipated demand at  
17 the next minimum content level; and

18 (3) adequate blending infrastructure and regulatory  
19 protocol are in place in order to promote biodiesel  
20 quality and avoid any potential economic disruption.

21 (c) During a period of biodiesel fuel shortage or a  
22 problem with biodiesel quality that negatively affects the  
23 availability of biodiesel fuel, the Director may temporarily  
24 suspend the minimum content requirement in subsection (a)  
25 until there is sufficient biodiesel fuel available to fulfill  
26 the minimum content requirement.

1           (d) The Department shall adopt rules regarding the  
2 regulation of the fuel standards contained in this Section.  
3 The Department shall also adopt rules that will provide for  
4 sufficient resources to assist and direct retailers and  
5 consumers in complying with the standards contained in this  
6 Section. In adopting these rules, the Department shall seek  
7 input from all interested parties, including, but not limited  
8 to, statewide trade associations.

9           Section 5-15. Exempt equipment.

10           (a) The minimum content requirements of Section 5-10 do  
11 not apply to fuel used in the following equipment:

12                 (1) motors located at an electric generating plant  
13 regulated by the Nuclear Regulatory Commission;

14                 (2) railroad locomotives;

15                 (3) vessels of the United States Coast Guard and  
16 vessels subject to inspection under United States Code,  
17 Title 46, Section 3301, subsection (1), (9), (10), (13),  
18 or (15); and

19                 (4) generators tested and validated by an entity that  
20 designs and manufactures the generators for use in  
21 jurisdictions where biodiesel use is not required.

22           (b) Except as provided in Section 5-20, the minimum  
23 content requirement of Section 5-10 shall apply to all diesel  
24 sold in the State of Illinois with no exemptions for equipment  
25 type or usage.

1           Section 5-20. Number 1 diesel fuel exempt. The minimum  
2 content requirements of Section 5-10 do not apply to Number 1  
3 diesel fuel.

4           Section 5-25. Disclosure.

5           (a) A refinery or terminal shall provide, at the time  
6 diesel fuel is sold or transferred from the refinery or  
7 terminal, a bill of lading or shipping manifest to the person  
8 who receives the fuel. For biodiesel-blended products, the  
9 bill of lading or shipping manifest must disclose biodiesel  
10 content, stating volume percentage, gallons of biodiesel per  
11 gallons of petroleum diesel base-stock, or an ASTM "Bxx"  
12 designation where "xx" denotes the volume percent biodiesel  
13 included in the blended product. This subsection does not  
14 apply to sales or transfers of biodiesel blend stock between  
15 refineries, between terminals, or between a refinery and a  
16 terminal.

17           (b) A delivery ticket required under this Section for a  
18 biodiesel blend must state the volume percentage of biodiesel  
19 blended into the diesel fuel delivered through a meter into a  
20 storage tank used for dispensing into motor vehicles powered  
21 by an internal combustion engine and not exempt under Section  
22 5-15.

23           Section 5-30. Annual report. Beginning in 2026, the

1 Director must report by January 15 of each year to the chairs  
2 and ranking minority members of the legislative committees and  
3 divisions with jurisdiction over agriculture policy regarding  
4 the implementation of the minimum content requirements in  
5 Section 5-10, including information about the price and supply  
6 of biodiesel fuel. The report shall include information about  
7 the impacts of the biodiesel mandate on the development of  
8 biodiesel production capacity in the State, and on the use of  
9 feedstock grown or raised in the State for biodiesel  
10 production.

11 ARTICLE 10. USE AND OCCUPATION TAX; BIODIESEL

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

14 (35 ILCS 105/3-10)

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

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

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

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

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

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

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

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

18 With respect to 100% biodiesel and biodiesel blends with  
19 more than 10% but no more than 99% biodiesel, the tax imposed  
20 by this Act does not apply to the proceeds of sales made on or  
21 after July 1, 2003 and on or before December 31, 2021 ~~December~~  
22 ~~31, 2023~~ but applies to 100% of the proceeds of sales made  
23 thereafter. With respect to 100% biodiesel and biodiesel  
24 blends with more than 20% but no more than 99% biodiesel, the  
25 tax imposed by this Act does not apply to proceeds of sales  
26 made on or after January 1, 2022 and on or before June 30, 2024



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

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

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

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

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

1 flour or requires refrigeration.

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

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

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

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

24 As used in this Section, "adult use cannabis" means  
25 cannabis subject to tax under the Cannabis Cultivation  
26 Privilege Tax Law and the Cannabis Purchaser Excise Tax Law

1 and does not include cannabis subject to tax under the  
2 Compassionate Use of Medical Cannabis Program Act.

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

10 (Source: P.A. 100-22, eff. 7-6-17; 101-363, eff. 8-9-19;  
11 101-593, eff. 12-4-19.)

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

14 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

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

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

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

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

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

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

4 With respect to 100% biodiesel, as defined in the Use Tax  
5 Act, and biodiesel blends, as defined in the Use Tax Act, with  
6 more than 10% but no more than 99% biodiesel, the tax imposed  
7 by this Act does not apply to the proceeds of the selling price  
8 of property transferred as an incident to the sale of service  
9 on or after July 1, 2003 and on or before December 31, 2021  
10 ~~December 31, 2023~~ but applies to 100% of the selling price  
11 thereafter. With respect to 100% biodiesel, as defined in the  
12 Use Tax Act, and biodiesel blends, as defined in the Use Tax  
13 Act, with more than 20% but no more than 99% biodiesel, the tax  
14 imposed by this Act does not apply to proceeds of sales made on  
15 or after January 1, 2022 and on or before June 30, 2024 but  
16 applies 100% of the proceeds of sales made thereafter.

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

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

1 soft drinks of whatever kind or description that are contained  
2 in any closed or sealed bottle, can, carton, or container,  
3 regardless of size; but "soft drinks" does not include coffee,  
4 tea, non-carbonated water, infant formula, milk or milk  
5 products as defined in the Grade A Pasteurized Milk and Milk  
6 Products Act, or drinks containing 50% or more natural fruit  
7 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 January 1, 2014 (the effective date of Public

1 Act 98-122), "prescription and nonprescription medicines and  
2 drugs" includes medical cannabis purchased from a registered  
3 dispensing organization under the Compassionate Use of Medical  
4 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 acquired from a serviceman is  
11 acquired outside Illinois and used outside Illinois before  
12 being brought to Illinois for use here and is taxable under  
13 this Act, the "selling price" on which the tax is computed  
14 shall be reduced by an amount that represents a reasonable  
15 allowance for depreciation for the period of prior  
16 out-of-state use.

17 (Source: P.A. 100-22, eff. 7-6-17; 101-363, eff. 8-9-19;  
18 101-593, eff. 12-4-19.)

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

21 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

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", as defined in Section 2 of the Service Use

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

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

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

1 thereafter. If, at any time, however, the tax under this Act on  
2 sales of gasohol, as defined in the Use Tax Act, is imposed at  
3 the rate of 1.25%, then the tax imposed by this Act applies to  
4 100% of the proceeds of sales of 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 selling price of property transferred as an incident to  
8 the sale of service on or after July 1, 2003 and on or before  
9 December 31, 2023 but applies to 100% of the selling price  
10 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 selling  
14 price of property transferred as an incident to the sale of  
15 service on or after July 1, 2003 and on or before December 31,  
16 2018 and (ii) 100% of the proceeds of the selling price  
17 thereafter. If, at any time, however, the tax under this Act on  
18 sales of biodiesel blends, as defined in the Use Tax Act, with  
19 no less than 1% and no more than 10% biodiesel is imposed at  
20 the rate of 1.25%, then the tax imposed by this Act applies to  
21 100% of the proceeds of sales of biodiesel blends with no less  
22 than 1% and no more than 10% biodiesel made during that time.

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

1 selling price of property transferred as an incident to the  
2 sale of service on or after July 1, 2003 and on or before  
3 December 31, 2021 ~~December 31, 2023~~ but applies to 100% of the  
4 selling price thereafter. With respect to 100% biodiesel, as  
5 defined in the Use Tax Act, and biodiesel blends, as defined in  
6 the Use Tax Act, with more than 20% but no more than 99%  
7 biodiesel, the tax imposed by this Act does not apply to  
8 proceeds of sales made on or after January 1, 2022 and on or  
9 before June 30, 2024 but applies 100% of the proceeds of sales  
10 made thereafter.

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

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

1 2013, or the Child Care Act of 1969. The tax shall also be  
2 imposed at the rate of 1% on food for human consumption that is  
3 to be consumed off the premises where it is sold (other than  
4 alcoholic beverages, food consisting of or infused with adult  
5 use cannabis, soft drinks, and food that has been prepared for  
6 immediate consumption and is not otherwise included in this  
7 paragraph) and prescription and nonprescription medicines,  
8 drugs, medical appliances, products classified as Class III  
9 medical devices by the United States Food and Drug  
10 Administration that are used for cancer treatment pursuant to  
11 a prescription, as well as any accessories and components  
12 related to those devices, modifications to a motor vehicle for  
13 the purpose of rendering it usable by a person with a  
14 disability, and insulin, urine testing materials, syringes,  
15 and needles used by diabetics, for human use. For the purposes  
16 of this Section, until September 1, 2009: the term "soft  
17 drinks" means any complete, finished, ready-to-use,  
18 non-alcoholic drink, whether carbonated or not, including but  
19 not limited to soda water, cola, fruit juice, vegetable juice,  
20 carbonated water, and all other preparations commonly known as  
21 soft drinks of whatever kind or description that are contained  
22 in any closed or sealed can, carton, or container, regardless  
23 of size; but "soft drinks" does not include coffee, tea,  
24 non-carbonated water, infant formula, milk or milk products as  
25 defined in the Grade A Pasteurized Milk and Milk Products Act,  
26 or drinks containing 50% or more natural fruit or vegetable

1 juice.

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

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

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

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

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

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

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

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

25 As used in this Section, "adult use cannabis" means  
26 cannabis subject to tax under the Cannabis Cultivation



1 Privilege Tax Law and the Cannabis Purchaser Excise Tax Law  
2 and does not include cannabis subject to tax under the  
3 Compassionate Use of Medical Cannabis Program Act.  
4 (Source: P.A. 100-22, eff. 7-6-17; 101-363, eff. 8-9-19;  
5 101-593, eff. 12-4-19.)

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

8 (35 ILCS 120/2-10)

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

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

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

20 Within 14 days after the effective date of this amendatory  
21 Act of the 91st General Assembly, each retailer of motor fuel  
22 and gasohol shall cause the following notice to be posted in a  
23 prominently visible place on each retail dispensing device  
24 that is used to dispense motor fuel or gasohol in the State of

1 Illinois: "As of July 1, 2000, the State of Illinois has  
2 eliminated the State's share of sales tax on motor fuel and  
3 gasohol through December 31, 2000. The price on this pump  
4 should reflect the elimination of the tax." The notice shall  
5 be printed in bold print on a sign that is no smaller than 4  
6 inches by 8 inches. The sign shall be clearly visible to  
7 customers. Any retailer who fails to post or maintain a  
8 required sign through December 31, 2000 is guilty of a petty  
9 offense for which the fine shall be \$500 per day per each  
10 retail premises where a violation occurs.

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

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

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

1 Tax Act, with no less than 1% and no more than 10% biodiesel,  
2 the tax imposed by this Act applies to (i) 80% of the proceeds  
3 of sales made on or after July 1, 2003 and on or before  
4 December 31, 2018 and (ii) 100% of the proceeds of sales made  
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 sales made on or  
15 after July 1, 2003 and on or before December 31, 2021 ~~December~~  
16 ~~31, 2023~~ but applies to 100% of the proceeds of sales made  
17 thereafter. With respect to 100% biodiesel, as defined in the  
18 Use Tax Act, and biodiesel blends, as defined in the Use Tax  
19 Act, with more than 20% but no more than 99% biodiesel, the tax  
20 imposed by this Act does not apply to proceeds of sales made on  
21 or after January 1, 2022 and on or before June 30, 2024 but  
22 applies 100% of the proceeds of sales made thereafter.

23 With respect to food for human consumption that is to be  
24 consumed off the premises where it is sold (other than  
25 alcoholic beverages, food consisting of or infused with adult  
26 use cannabis, soft drinks, and food that has been prepared for

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

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

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

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

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

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

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

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

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

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

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

24 (Source: P.A. 100-22, eff. 7-6-17; 101-363, eff. 8-9-19;  
25 101-593, eff. 12-4-19.)

1

ARTICLE 99. EFFECTIVE DATE

2

Section 99-99. Effective date. Article 5 of this Act takes effect July 1, 2021. This Article and Article 10 of this Act take effect upon becoming law.

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