



Sen. John M. Sullivan

Filed: 6/6/2007

09500SB0798sam001

LRB095 05484 BDD 37199 a

1 AMENDMENT TO SENATE BILL 798

2 AMENDMENT NO. _____. Amend Senate Bill 798 by replacing
3 everything after the enacting clause with the following:

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

6 (35 ILCS 105/3-10) (from Ch. 120, par. 439.3-10)

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

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

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

16 With respect to gasohol, the tax imposed by this Act
17 applies to (i) 70% of the proceeds of sales made on or after
18 January 1, 1990, and before July 1, 2003, (ii) 80% of the
19 proceeds of sales made on or after July 1, 2003 and on or
20 before December 31, 2013, and (iii) 100% of the proceeds of
21 sales made thereafter. If, at any time, however, the tax under
22 this Act on sales of gasohol is imposed at the rate of 1.25%,
23 then the tax imposed by this Act applies to 100% of the
24 proceeds of sales of gasohol made during that time.

25 With respect to majority blended ethanol fuel, the tax
26 imposed by this Act does not apply to the proceeds of sales

1 made on or after July 1, 2003 and on or before December 31,
2 2013 but applies to 100% of the proceeds of sales made
3 thereafter.

4 With respect to biodiesel blends with no less than 1% and
5 no more than 10% biodiesel, the tax imposed by this Act applies
6 to (i) 80% of the proceeds of sales made on or after July 1,
7 2003 and on or before December 31, 2013 and (ii) 100% of the
8 proceeds of sales made thereafter. If, at any time, however,
9 the tax under this Act on sales of biodiesel blends with no
10 less than 1% and no more than 10% biodiesel is imposed at the
11 rate of 1.25%, then the tax imposed by this Act applies to 100%
12 of the proceeds of sales of biodiesel blends with no less than
13 1% and no more than 10% biodiesel made during that time.

14 With respect to 100% biodiesel and biodiesel blends with
15 more than 10% but no more than 99% biodiesel, the tax imposed
16 by this Act does not apply to the proceeds of sales made on or
17 after July 1, 2003 and on or before December 31, 2013 but
18 applies to 100% of the proceeds of sales made thereafter.

19 Effective December 1, 2006, biodiesel blends are exempt for
20 the limited months of December through the immediately
21 following February, provided that the percentage of biodiesel
22 contained in the biodiesel blends sold during the 9-month
23 period immediately following February must be over 10% and
24 result in an overall average of more than 10% biodiesel in
25 biodiesel blends for each month of the 12-month period
26 beginning each December and ending the following November 31.

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

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

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

8 (Source: P.A. 93-17, eff. 6-11-03.)

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

11 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

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

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

22 With respect to gasohol, as defined in the Use Tax Act, the
23 tax imposed by this Act applies to (i) 70% of the selling price
24 of property transferred as an incident to the sale of service

1 on or after January 1, 1990, and before July 1, 2003, (ii) 80%
2 of the selling price of property transferred as an incident to
3 the sale of service on or after July 1, 2003 and on or before
4 December 31, 2013, and (iii) 100% of the selling 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, 2013 but applies to 100% of the selling price
14 thereafter.

15 With respect to biodiesel blends, as defined in the Use Tax
16 Act, with no less than 1% and no more than 10% biodiesel, the
17 tax imposed by this Act applies to (i) 80% of the selling price
18 of property transferred as an incident to the sale of service
19 on or after July 1, 2003 and on or before December 31, 2013 and
20 (ii) 100% of the proceeds of the selling price thereafter. If,
21 at any time, however, the tax under this Act on sales of
22 biodiesel blends, as defined in the Use Tax Act, with no less
23 than 1% and no more than 10% biodiesel is imposed at the rate
24 of 1.25%, then the tax imposed by this Act applies to 100% of
25 the proceeds of sales of biodiesel blends with no less than 1%
26 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, the tax imposed
4 by this Act does not apply to the proceeds of the selling price
5 of property transferred as an incident to the sale of service
6 on or after July 1, 2003 and on or before December 31, 2013 but
7 applies to 100% of the selling price thereafter.

8 Effective December 1, 2006, biodiesel blends are exempt for
9 the limited months of December through the immediately
10 following February, provided that the percentage of biodiesel
11 contained in the biodiesel blends sold during the 9-month
12 period immediately following February must be over 10% and
13 result in an overall average of more than 10% biodiesel in
14 biodiesel blends for each month of the 12-month period
15 beginning each December and ending the following November 31.

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

26 The tax shall be imposed at the rate of 1% on food prepared

1 for immediate consumption and transferred incident to a sale of
2 service subject to this Act or the Service Occupation Tax Act
3 by an entity licensed under the Hospital Licensing Act, the
4 Nursing Home Care Act, or the Child Care Act of 1969. The tax
5 shall also be imposed at the rate of 1% on food for human
6 consumption that is to be consumed off the premises where it is
7 sold (other than alcoholic beverages, soft drinks, and food
8 that has been prepared for immediate consumption and is not
9 otherwise included in this paragraph) and prescription and
10 nonprescription medicines, drugs, medical appliances,
11 modifications to a motor vehicle for the purpose of rendering
12 it usable by a disabled person, and insulin, urine testing
13 materials, syringes, and needles used by diabetics, for human
14 use. For the purposes of this Section, the term "soft drinks"
15 means any complete, finished, ready-to-use, non-alcoholic
16 drink, whether carbonated or not, including but not limited to
17 soda water, cola, fruit juice, vegetable juice, carbonated
18 water, and all other preparations commonly known as soft drinks
19 of whatever kind or description that are contained in any
20 closed or sealed bottle, can, carton, or container, regardless
21 of size. "Soft drinks" does not include coffee, tea,
22 non-carbonated water, infant formula, milk or milk products as
23 defined in the Grade A Pasteurized Milk and Milk Products Act,
24 or drinks containing 50% or more natural fruit or vegetable
25 juice.

26 Notwithstanding any other provisions of this Act, "food for

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

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

13 (Source: P.A. 93-17, eff. 6-11-03.)

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

16 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

17 Sec. 3-10. Rate of tax. Unless otherwise provided in this
18 Section, the tax imposed by this Act is at the rate of 6.25% of
19 the "selling price", as defined in Section 2 of the Service Use
20 Tax Act, of the tangible personal property. For the purpose of
21 computing this tax, in no event shall the "selling price" be
22 less than the cost price to the serviceman of the tangible
23 personal property transferred. The selling price of each item
24 of tangible personal property transferred as an incident of a

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

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

15 With respect to gasohol, as defined in the Use Tax Act, the
16 tax imposed by this Act shall apply to (i) 70% of the cost
17 price of property transferred as an incident to the sale of
18 service on or after January 1, 1990, and before July 1, 2003,
19 (ii) 80% of the selling price of property transferred as an
20 incident to the sale of service on or after July 1, 2003 and on
21 or before December 31, 2013, and (iii) 100% of the cost price
22 thereafter. If, at any time, however, the tax under this Act on
23 sales of gasohol, as defined in the Use Tax Act, 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 gasohol made during that time.

26 With respect to majority blended ethanol fuel, as defined

1 in the Use Tax Act, the tax imposed by this Act does not apply
2 to the selling price of property transferred as an incident to
3 the sale of service on or after July 1, 2003 and on or before
4 December 31, 2013 but applies to 100% of the selling price
5 thereafter.

6 With respect to biodiesel blends, as defined in the Use Tax
7 Act, with no less than 1% and no more than 10% biodiesel, the
8 tax imposed by this Act applies to (i) 80% of the selling price
9 of property transferred as an incident to the sale of service
10 on or after July 1, 2003 and on or before December 31, 2013 and
11 (ii) 100% of the proceeds of the selling price thereafter. If,
12 at any time, however, the tax under this Act on sales of
13 biodiesel blends, as defined in the Use Tax Act, with no less
14 than 1% and no more than 10% biodiesel is imposed at the rate
15 of 1.25%, then the tax imposed by this Act applies to 100% of
16 the proceeds of sales of biodiesel blends with no less than 1%
17 and no more than 10% biodiesel made during that time.

18 With respect to 100% biodiesel, as defined in the Use Tax
19 Act, and biodiesel blends, as defined in the Use Tax Act, with
20 more than 10% but no more than 99% biodiesel material, the tax
21 imposed by this Act does not apply to the proceeds of the
22 selling price of property transferred as an incident to the
23 sale of service on or after July 1, 2003 and on or before
24 December 31, 2013 but applies to 100% of the selling price
25 thereafter.

26 Effective December 1, 2006, biodiesel blends are exempt for

1 the limited months of December through the immediately
2 following February, provided that the percentage of biodiesel
3 contained in the biodiesel blends sold during the 9-month
4 period immediately following February must be over 10% and
5 result in an overall average of more than 10% biodiesel in
6 biodiesel blends for each month of the 12-month period
7 beginning each December and ending the following November 31.

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

18 The tax shall be imposed at the rate of 1% on food prepared
19 for immediate consumption and transferred incident to a sale of
20 service subject to this Act or the Service Occupation Tax Act
21 by an entity licensed under the Hospital Licensing Act, the
22 Nursing Home Care Act, or the Child Care Act of 1969. The tax
23 shall also be imposed at the rate of 1% on food for human
24 consumption that is to be consumed off the premises where it is
25 sold (other than alcoholic beverages, soft drinks, and food
26 that has been prepared for immediate consumption and is not

1 otherwise included in this paragraph) and prescription and
2 nonprescription medicines, drugs, medical appliances,
3 modifications to a motor vehicle for the purpose of rendering
4 it usable by a disabled person, and insulin, urine testing
5 materials, syringes, and needles used by diabetics, for human
6 use. For the purposes of this Section, the term "soft drinks"
7 means any complete, finished, ready-to-use, non-alcoholic
8 drink, whether carbonated or not, including but not limited to
9 soda water, cola, fruit juice, vegetable juice, carbonated
10 water, and all other preparations commonly known as soft drinks
11 of whatever kind or description that are contained in any
12 closed or sealed can, carton, or container, regardless of size.
13 "Soft drinks" does not include coffee, tea, non-carbonated
14 water, infant formula, milk or milk products as defined in the
15 Grade A Pasteurized Milk and Milk Products Act, or drinks
16 containing 50% or more natural fruit or vegetable juice.

17 Notwithstanding any other provisions of this Act, "food for
18 human consumption that is to be consumed off the premises where
19 it is sold" includes all food sold through a vending machine,
20 except soft drinks and food products that are dispensed hot
21 from a vending machine, regardless of the location of the
22 vending machine.

23 (Source: P.A. 93-17, eff. 6-11-03.)

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

1 (35 ILCS 120/2-10) (from Ch. 120, par. 441-10)

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

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

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

25 With respect to gasohol, as defined in the Use Tax Act, the

1 tax imposed by this Act applies to (i) 70% of the proceeds of
2 sales made on or after January 1, 1990, and before July 1,
3 2003, (ii) 80% of the proceeds of sales made on or after July
4 1, 2003 and on or before December 31, 2013, and (iii) 100% of
5 the proceeds of sales made thereafter. If, at any time,
6 however, the tax under this Act on sales of gasohol, as defined
7 in the Use Tax Act, is imposed at the rate of 1.25%, then the
8 tax imposed by this Act applies to 100% of the proceeds of
9 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 proceeds of sales made on or after July 1, 2003 and on or
13 before December 31, 2013 but applies to 100% of the proceeds of
14 sales made thereafter.

15 With respect to biodiesel blends, as defined in the Use Tax
16 Act, with no less than 1% and no more than 10% biodiesel, the
17 tax imposed by this Act applies to (i) 80% of the proceeds of
18 sales made on or after July 1, 2003 and on or before December
19 31, 2013 and (ii) 100% of the proceeds of sales made
20 thereafter. If, at any time, however, the tax under this Act on
21 sales of biodiesel blends, as defined in the Use Tax Act, with
22 no less than 1% and no more than 10% biodiesel is imposed at
23 the rate of 1.25%, then the tax imposed by this Act applies to
24 100% of the proceeds of sales of biodiesel blends with no less
25 than 1% and no more than 10% biodiesel made during that time.

26 With respect to 100% biodiesel, as defined in the Use Tax

1 Act, and biodiesel blends, as defined in the Use Tax Act, with
2 more than 10% but no more than 99% biodiesel, the tax imposed
3 by this Act does not apply to the proceeds of sales made on or
4 after July 1, 2003 and on or before December 31, 2013 but
5 applies to 100% of the proceeds of sales made thereafter.

6 Effective December 1, 2006, biodiesel blends are exempt for
7 the limited months of December through the immediately
8 following February, provided that the percentage of biodiesel
9 contained in the biodiesel blends sold during the 9-month
10 period immediately following February must be over 10% and
11 result in an overall average of more than 10% biodiesel in
12 biodiesel blends for each month of the 12-month period
13 beginning each December and ending the following November 31.

14 With respect to food for human consumption that is to be
15 consumed off the premises where it is sold (other than
16 alcoholic beverages, soft drinks, and food that has been
17 prepared for immediate consumption) and prescription and
18 nonprescription medicines, drugs, medical appliances,
19 modifications to a motor vehicle for the purpose of rendering
20 it usable by a disabled person, and insulin, urine testing
21 materials, syringes, and needles used by diabetics, for human
22 use, the tax is imposed at the rate of 1%. For the purposes of
23 this Section, the term "soft drinks" means any complete,
24 finished, ready-to-use, non-alcoholic drink, whether
25 carbonated or not, including but not limited to soda water,
26 cola, fruit juice, vegetable juice, carbonated water, and all

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

8 Notwithstanding any other provisions of this Act, "food for
9 human consumption that is to be consumed off the premises where
10 it is sold" includes all food sold through a vending machine,
11 except soft drinks and food products that are dispensed hot
12 from a vending machine, regardless of the location of the
13 vending machine.

14 (Source: P.A. 93-17, eff. 6-11-03.)

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