

**SB3367**



**96TH GENERAL ASSEMBLY**

**State of Illinois**

**2009 and 2010**

**SB3367**

Introduced 2/10/2010, by Sen. Louis S. Viverito

**SYNOPSIS AS INTRODUCED:**

35 ILCS 120/2-10

Amends the Retailers' Occupation Tax Act. Makes a technical change in a Section concerning the rate of tax.

LRB096 20555 HLH 36242 b

**A BILL FOR**

1 AN ACT concerning revenue.

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

4 Section 5. The Retailers' Occupation Tax Act is amended by  
5 changing Section 2-10 as follows:

6 (35 ILCS 120/2-10)

7 Sec. 2-10. Rate of tax. Unless otherwise provided in this  
8 Section, the ~~the~~ tax imposed by this Act is at the rate of  
9 6.25% of gross receipts from sales of tangible personal  
10 property made in the course of business.

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 Within 14 days after the effective date of this amendatory  
16 Act of the 91st General Assembly, each retailer of motor fuel  
17 and gasohol shall cause the following notice to be posted in a  
18 prominently visible place on each retail dispensing device that  
19 is used to dispense motor fuel or gasohol in the State of  
20 Illinois: "As of July 1, 2000, the State of Illinois has  
21 eliminated the State's share of sales tax on motor fuel and  
22 gasohol through December 31, 2000. The price on this pump  
23 should reflect the elimination of the tax." The notice shall be

1 printed in bold print on a sign that is no smaller than 4  
2 inches by 8 inches. The sign shall be clearly visible to  
3 customers. Any retailer who fails to post or maintain a  
4 required sign through December 31, 2000 is guilty of a petty  
5 offense for which the fine shall be \$500 per day per each  
6 retail premises where a violation occurs.

7 With respect to gasohol, as defined in the Use Tax Act, the  
8 tax imposed by this Act applies to (i) 70% of the proceeds of  
9 sales made on or after January 1, 1990, and before July 1,  
10 2003, (ii) 80% of the proceeds of sales made on or after July  
11 1, 2003 and on or before December 31, 2013, and (iii) 100% of  
12 the proceeds of sales made thereafter. If, at any time,  
13 however, the tax under this Act on sales of gasohol, as defined  
14 in the Use Tax Act, is imposed at the rate of 1.25%, then the  
15 tax imposed by this Act applies to 100% of the proceeds of  
16 sales of gasohol made during that time.

17 With respect to majority blended ethanol fuel, as defined  
18 in the Use Tax Act, the tax imposed by this Act does not apply  
19 to the proceeds of sales made on or after July 1, 2003 and on or  
20 before December 31, 2013 but applies to 100% of the proceeds of  
21 sales made thereafter.

22 With respect to biodiesel blends, as defined in the Use Tax  
23 Act, with no less than 1% and no more than 10% biodiesel, the  
24 tax imposed by this Act applies to (i) 80% of the proceeds of  
25 sales made on or after July 1, 2003 and on or before December  
26 31, 2013 and (ii) 100% of the proceeds of sales made

1 thereafter. If, at any time, however, the tax under this Act on  
2 sales of biodiesel blends, as defined in the Use Tax Act, with  
3 no less than 1% and no more than 10% biodiesel is imposed at  
4 the rate of 1.25%, then the tax imposed by this Act applies to  
5 100% of the proceeds of sales of biodiesel blends with no less  
6 than 1% and no more than 10% biodiesel made during that time.

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

13 With respect to food for human consumption that is to be  
14 consumed off the premises where it is sold (other than  
15 alcoholic beverages, soft drinks, and food that has been  
16 prepared for immediate consumption) and prescription and  
17 nonprescription medicines, drugs, medical appliances,  
18 modifications to a motor vehicle for the purpose of rendering  
19 it usable by a disabled person, and insulin, urine testing  
20 materials, syringes, and needles used by diabetics, for human  
21 use, the tax is imposed at the rate of 1%. For the purposes of  
22 this Section, until September 1, 2009: the term "soft drinks"  
23 means any complete, finished, ready-to-use, non-alcoholic  
24 drink, whether carbonated or not, including but not limited to  
25 soda water, cola, fruit juice, vegetable juice, carbonated  
26 water, and all other preparations commonly known as soft drinks

1 of whatever kind or description that are contained in any  
2 closed or sealed bottle, can, carton, or container, regardless  
3 of size; but "soft drinks" does not include coffee, tea,  
4 non-carbonated water, infant formula, milk or milk products as  
5 defined in the Grade A Pasteurized Milk and Milk Products Act,  
6 or drinks containing 50% or more natural fruit or vegetable  
7 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 other  
6 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 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,

1 eff. 7-13-09; revised 8-20-09.)