



Executive Committee

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09600SB3658ham001

LRB096 20358 HLH 41151 a

1 AMENDMENT TO SENATE BILL 3658

2 AMENDMENT NO. _____. Amend Senate Bill 3658 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 and by adding Section 3-6 as follows:

6 (35 ILCS 105/3-6 new)

7 Sec. 3-6. Sales tax holiday items.

8 (a) The tangible personal property described in this
9 subsection qualifies for the 1.25% reduced rate of tax for the
10 period set forth in Section 3-10 of this Act (hereinafter
11 referred to as the Sales Tax Holiday Period). The reduced rate
12 on these items shall be administered under the provisions of
13 subsection (b) of this Section. The following items are subject
14 to the reduced rate:

15 (1) Clothing items that each have a retail selling
16 price of less than \$100.

1 "Clothing" means, unless otherwise specified in this
2 Section, all human wearing apparel suitable for general
3 use. "Clothing" does not include clothing accessories,
4 protective equipment, or sport or recreational equipment.
5 "Clothing" includes, but is not limited to: household and
6 shop aprons; athletic supporters; bathing suits and caps;
7 belts and suspenders; boots; coats and jackets; ear muffs;
8 footlets; gloves and mittens for general use; hats and
9 caps; hosiery; insoles for shoes; lab coats; neckties;
10 overshoes; pantyhose; rainwear; rubber pants; sandals;
11 scarves; shoes and shoelaces; slippers; sneakers; socks
12 and stockings; steel-toed shoes; underwear; and school
13 uniforms.

14 "Clothing accessories" means, but is not limited to:
15 briefcases; cosmetics; hair notions, including, but not
16 limited to barrettes, hair bows, and hair nets; handbags;
17 handkerchiefs; jewelry; non-prescription sunglasses;
18 umbrellas; wallets; watches; and wigs and hair pieces.

19 "Protective equipment" means, but is not limited to:
20 breathing masks; clean room apparel and equipment; ear and
21 hearing protectors; face shields; hard hats; helmets;
22 paint or dust respirators; protective gloves; safety
23 glasses and goggles; safety belts; tool belts; and welder's
24 gloves and masks.

25 "Sport or recreational equipment" means, but is not
26 limited to: ballet and tap shoes; cleated or spiked

1 athletic shoes; gloves, including, but not limited to,
2 baseball, bowling, boxing, hockey, and golf gloves;
3 goggles; hand and elbow guards; life preservers and vests;
4 mouth guards; roller and ice skates; shin guards; shoulder
5 pads; ski boots; waders; and wetsuits and fins.

6 (2) School supplies. "School supplies" means, unless
7 otherwise specified in this Section, items used by a
8 student in a course of study. The purchase of school
9 supplies for use by persons other than students for use in
10 a course of study are not eligible for the reduced rate of
11 tax. "School supplies" do not include school art supplies;
12 school instructional materials; cameras; film and memory
13 cards; videocameras, tapes, and videotapes; computers;
14 cell phones; Personal Digital Assistants (PDAs); handheld
15 electronic schedulers; and school computer supplies.

16 "School supplies" includes, but is not limited to:
17 binders; book bags; calculators; cellophane tape;
18 blackboard chalk; compasses; composition books; crayons;
19 erasers; expandable, pocket, plastic, and manila folders;
20 glue, paste, and paste sticks; highlighters; index cards;
21 index card boxes; legal pads; lunch boxes; markers;
22 notebooks; paper, including loose leaf ruled notebook
23 paper, copy paper, graph paper, tracing paper, manila
24 paper, colored paper, poster board, and construction
25 paper; pencils; pencil leads; pens; ink and ink refills for
26 pens; pencil boxes and other school supply boxes; pencil

1 sharpeners; protractors; rulers; scissors; and
2 writing-tablets.

3 "School art supply" means an item commonly used by a
4 student in a course of study for artwork and includes only
5 the following items: clay and glazes; acrylic, tempera, and
6 oil paint; paintbrushes for artwork; sketch and drawing
7 pads; and watercolors.

8 "School instructional material" means written material
9 commonly used by a student in a course of study as a
10 reference and to learn the subject being taught and
11 includes only the following items: reference books;
12 reference maps and globes; textbooks; and workbooks.

13 "School computer supply" means an item commonly used by
14 a student in a course of study in which a computer is used
15 and applies only to the following items: flashdrives and
16 other computer data storage devices; data storage media,
17 such as diskettes and compact disks; boxes and cases for
18 disk storage; external ports or drives; computer cases;
19 computer cables; computer printers; and printer
20 cartridges, toner, and ink.

21 (b) Administration. Notwithstanding any other provision of
22 this Act, the reduced rate of tax under Section 3-10 of this
23 Act for clothing and school supplies shall be administered by
24 the Department under the provisions of this subsection (b).

25 (1) Bundled sales. Items that qualify for the reduced
26 rate of tax that are bundled together with items that do

1 not qualify for the reduced rate of tax and that are sold
2 for one itemized price will be subject to the reduced rate
3 of tax only if the value of the items that qualify for the
4 reduced rate of tax exceeds the value of the items that do
5 not qualify for the reduced rate of tax.

6 (2) Coupons and discounts. An unreimbursed discount by
7 the seller reduces the sales price of the property so that
8 the discounted sales price determines whether the sales
9 price is within a sales tax holiday price threshold. A
10 coupon or other reduction in the sales price is treated as
11 a discount if the seller is not reimbursed for the coupon
12 or reduction amount by a third-party.

13 (3) Splitting of items normally sold together.
14 Articles that are normally sold as a single unit must
15 continue to be sold in that manner. Such articles cannot be
16 priced separately and sold as individual items in order to
17 obtain the reduced rate of tax. For example, a pair of
18 shoes cannot have each shoe sold separately so that the
19 sales price of each shoe is within a sales tax holiday
20 price threshold.

21 (4) Rain checks. A rain check is a procedure that
22 allows a customer to purchase an item at a certain price at
23 a later time because the particular item was out of stock.
24 Eligible property that customers purchase during the Sales
25 Tax Holiday Period with the use of a rain check will
26 qualify for the reduced rate of tax regardless of when the

1 rain check was issued. Issuance of a rain check during the
2 Sales Tax Holiday Period will not qualify eligible property
3 for the reduced rate of tax if the property is actually
4 purchased after the Sales Tax Holiday Period.

5 (5) Exchanges. The procedure for an exchange in regards
6 to a sales tax holiday is as follows:

7 (A) If a customer purchases an item of eligible
8 property during the Sales Tax Holiday Period, but later
9 exchanges the item for a similar eligible item, even if
10 a different size, different color, or other feature, no
11 additional tax is due even if the exchange is made
12 after the Sales Tax Holiday Period.

13 (B) If a customer purchases an item of eligible
14 property during the Sales Tax Holiday Period, but after
15 the Sales Tax Holiday Period has ended, the customer
16 returns the item and receives credit on the purchase of
17 a different item, the 6.25% general merchandise sales
18 tax rate is due on the sale of the newly purchased
19 item.

20 (C) If a customer purchases an item of eligible
21 property before the Sales Tax Holiday Period, but
22 during the Sales Tax Holiday Period the customer
23 returns the item and receives credit on the purchase of
24 a different item of eligible property, the reduced rate
25 of tax is due on the sale of the new item if the new
26 item is purchased during the Sales Tax Holiday Period.

1 (6) Delivery charges. Delivery charges, including
2 shipping, handling and service charges, are part of the
3 sales price of eligible property.

4 (7) Order date and back orders. For the purpose of a
5 sales tax holiday, eligible property qualifies for the
6 reduced rate of tax if: (i) the item is both delivered to
7 and paid for by the customer during the Sales Tax Holiday
8 Period or (ii) the customer orders and pays for the item
9 and the seller accepts the order during the Sales Tax
10 Holiday Period for immediate shipment, even if delivery is
11 made after the Sales Tax Holiday Period. The seller accepts
12 an order when the seller has taken action to fill the order
13 for immediate shipment. Actions to fill an order include
14 placement of an "in date" stamp on an order or assignment
15 of an "order number" to an order within the Sales Tax
16 Holiday Period. An order is for immediate shipment when the
17 customer does not request delayed shipment. An order is for
18 immediate shipment notwithstanding that the shipment may
19 be delayed because of a backlog of orders or because stock
20 is currently unavailable to, or on back order by, the
21 seller.

22 (8) Returns. For a 60-day period immediately after the
23 Sales Tax Holiday Period, if a customer returns an item
24 that would qualify for the reduced rate of tax, credit for
25 or refund of sales tax shall be given only at the reduced
26 rate unless the customer provides a receipt or invoice that

1 shows tax was paid at the 6.25% general merchandise rate,
2 or the seller has sufficient documentation to show that tax
3 was paid at the 6.25% general merchandise rate on the
4 specific item. This 60-day period is set solely for the
5 purpose of designating a time period during which the
6 customer must provide documentation that shows that the
7 appropriate sales tax rate was paid on returned
8 merchandise. The 60-day period is not intended to change a
9 seller's policy on the time period during which the seller
10 will accept returns.

11 (c) The Department may implement the provisions of this
12 Section through the use of emergency rules, along with
13 permanent rules filed concurrently with such emergency rules,
14 in accordance with the provisions of Section 5-45 of the
15 Illinois Administrative Procedure Act. For purposes of the
16 Illinois Administrative Procedure Act, the adoption of rules to
17 implement the provisions of this Section shall be deemed an
18 emergency and necessary for the public interest, safety, and
19 welfare.

20 (35 ILCS 105/3-10)

21 Sec. 3-10. Rate of tax. Unless otherwise provided in this
22 Section, the tax imposed by this Act is at the rate of 6.25% of
23 either the selling price or the fair market value, if any, of
24 the tangible personal property. In all cases where property
25 functionally used or consumed is the same as the property that

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

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

21 Beginning on August 6, 2010 through August 15, 2010, and
22 each year thereafter beginning on the first Friday in August
23 and ending on the Sunday occurring 9 days thereafter, with
24 respect to sales tax holiday items as defined in Section 3-6 of
25 this Act, the tax is imposed at the rate of 1.25%. The reduced
26 rate of tax for sales tax holiday items as defined in Section

1 3-6 of this Act shall not be authorized for periods after
2 August 16, 2013.

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

12 With respect to majority blended ethanol fuel, the tax
13 imposed by this Act does not apply to the proceeds of sales
14 made on or after July 1, 2003 and on or before December 31,
15 2013 but applies to 100% of the proceeds of sales made
16 thereafter.

17 With respect to biodiesel blends with no less than 1% and
18 no more than 10% biodiesel, the tax imposed by this Act applies
19 to (i) 80% of the proceeds of sales made on or after July 1,
20 2003 and on or before December 31, 2013 and (ii) 100% of the
21 proceeds of sales made thereafter. If, at any time, however,
22 the tax under this Act on sales of biodiesel blends with no
23 less than 1% and no more than 10% biodiesel is imposed at the
24 rate of 1.25%, then the tax imposed by this Act applies to 100%
25 of the proceeds of sales of biodiesel blends with no less than
26 1% and no more than 10% biodiesel made during that time.

1 With respect to 100% biodiesel and biodiesel blends 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 With respect to food for human consumption that is to be
7 consumed off the premises where it is sold (other than
8 alcoholic beverages, soft drinks, and food that has been
9 prepared for immediate consumption) 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, the tax is imposed at the rate of 1%. For the purposes of
15 this Section, until September 1, 2009: the term "soft drinks"
16 means any complete, finished, ready-to-use, non-alcoholic
17 drink, whether carbonated or not, including but not limited to
18 soda water, cola, fruit juice, vegetable juice, carbonated
19 water, and all other preparations commonly known as soft drinks
20 of whatever kind or description that are contained in any
21 closed or sealed bottle, can, carton, or container, regardless
22 of size; but "soft drinks" does not include coffee, tea,
23 non-carbonated water, infant formula, milk or milk products as
24 defined in the Grade A Pasteurized Milk and Milk Products Act,
25 or drinks containing 50% or more natural fruit or vegetable
26 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 other
25 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 If the property that is purchased at retail from a retailer
20 is acquired outside Illinois and used outside Illinois before
21 being brought to Illinois for use here and is taxable under
22 this Act, the "selling price" on which the tax is computed
23 shall be reduced by an amount that represents a reasonable
24 allowance for depreciation for the period of prior out-of-state
25 use.

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.)

2 Section 10. The Retailers' Occupation Tax Act is amended by
3 changing Section 2-10 and by adding Section 2-8 as follows:

4 (35 ILCS 120/2-8 new)

5 Sec. 2-8. Sales tax holiday items.

6 (a) The tangible personal property described in this
7 subsection qualifies for the 1.25% reduced rate of tax for the
8 period set forth in Section 2-10 of this Act (hereinafter
9 referred to as the Sales Tax Holiday Period). The reduced rate
10 on these items shall be administered under the provisions of
11 subsection (b) of this Section. The following items are subject
12 to the reduced rate:

13 (1) Clothing items that each have a retail selling
14 price of less than \$100.

15 "Clothing" means, unless otherwise specified in this
16 Section, all human wearing apparel suitable for general
17 use. "Clothing" does not include clothing accessories,
18 protective equipment, or sport or recreational equipment.
19 "Clothing" includes, but is not limited to: household and
20 shop aprons; athletic supporters; bathing suits and caps;
21 belts and suspenders; boots; coats and jackets; ear muffs;
22 footlets; gloves and mittens for general use; hats and
23 caps; hosiery; insoles for shoes; lab coats; neckties;
24 overshoes; pantyhose; rainwear; rubber pants; sandals;

1 scarves; shoes and shoelaces; slippers; sneakers; socks
2 and stockings; steel-toed shoes; underwear; and school
3 uniforms.

4 "Clothing accessories" means, but is not limited to:
5 briefcases; cosmetics; hair notions, including, but not
6 limited to barrettes, hair bows, and hair nets; handbags;
7 handkerchiefs; jewelry; non-prescription sunglasses;
8 umbrellas; wallets; watches; and wigs and hair pieces.

9 "Protective equipment" means, but is not limited to:
10 breathing masks; clean room apparel and equipment; ear and
11 hearing protectors; face shields; hard hats; helmets;
12 paint or dust respirators; protective gloves; safety
13 glasses and goggles; safety belts; tool belts; and welder's
14 gloves and masks.

15 "Sport or recreational equipment" means, but is not
16 limited to: ballet and tap shoes; cleated or spiked
17 athletic shoes; gloves, including, but not limited to,
18 baseball, bowling, boxing, hockey, and golf gloves;
19 goggles; hand and elbow guards; life preservers and vests;
20 mouth guards; roller and ice skates; shin guards; shoulder
21 pads; ski boots; waders; and wetsuits and fins.

22 (2) School supplies. "School supplies" means, unless
23 otherwise specified in this Section, items used by a
24 student in a course of study. The purchase of school
25 supplies for use by persons other than students for use in
26 a course of study are not eligible for the reduced rate of

1 tax. "School supplies" do not include school art supplies;
2 school instructional materials; cameras; film and memory
3 cards; videocameras, tapes, and videotapes; computers;
4 cell phones; Personal Digital Assistants (PDAs); handheld
5 electronic schedulers; and school computer supplies.

6 "School supplies" includes, but is not limited to:
7 binders; book bags; calculators; cellophane tape;
8 blackboard chalk; compasses; composition books; crayons;
9 erasers; expandable, pocket, plastic, and manila folders;
10 glue, paste, and paste sticks; highlighters; index cards;
11 index card boxes; legal pads; lunch boxes; markers;
12 notebooks; paper, including loose leaf ruled notebook
13 paper, copy paper, graph paper, tracing paper, manila
14 paper, colored paper, poster board, and construction
15 paper; pencils; pencil leads; pens; ink and ink refills for
16 pens; pencil boxes and other school supply boxes; pencil
17 sharpeners; protractors; rulers; scissors; and
18 writing-tablets.

19 "School art supply" means an item commonly used by a
20 student in a course of study for artwork and includes only
21 the following items: clay and glazes; acrylic, tempera, and
22 oil paint; paintbrushes for artwork; sketch and drawing
23 pads; and watercolors.

24 "School instructional material" means written material
25 commonly used by a student in a course of study as a
26 reference and to learn the subject being taught and

1 includes only the following items: reference books;
2 reference maps and globes; textbooks; and workbooks.

3 "School computer supply" means an item commonly used by
4 a student in a course of study in which a computer is used
5 and applies only to the following items: flashdrives and
6 other computer data storage devices; data storage media,
7 such as diskettes and compact disks; boxes and cases for
8 disk storage; external ports or drives; computer cases;
9 computer cables; computer printers; and printer
10 cartridges, toner, and ink.

11 (b) Administration. Notwithstanding any other provision of
12 this Act, the reduced rate of tax under Section 3-10 of this
13 Act for clothing and school supplies shall be administered by
14 the Department under the provisions of this subsection (b).

15 (1) Bundled sales. Items that qualify for the reduced
16 rate of tax that are bundled together with items that do
17 not qualify for the reduced rate of tax and that are sold
18 for one itemized price will be subject to the reduced rate
19 of tax only if the value of the items that qualify for the
20 reduced rate of tax exceeds the value of the items that do
21 not qualify for the reduced rate of tax.

22 (2) Coupons and discounts. An unreimbursed discount by
23 the seller reduces the sales price of the property so that
24 the discounted sales price determines whether the sales
25 price is within a sales tax holiday price threshold. A
26 coupon or other reduction in the sales price is treated as

1 a discount if the seller is not reimbursed for the coupon
2 or reduction amount by a third-party.

3 (3) Splitting of items normally sold together.
4 Articles that are normally sold as a single unit must
5 continue to be sold in that manner. Such articles cannot be
6 priced separately and sold as individual items in order to
7 obtain the reduced rate of tax. For example, a pair of
8 shoes cannot have each shoe sold separately so that the
9 sales price of each shoe is within a sales tax holiday
10 price threshold.

11 (4) Rain checks. A rain check is a procedure that
12 allows a customer to purchase an item at a certain price at
13 a later time because the particular item was out of stock.
14 Eligible property that customers purchase during the Sales
15 Tax Holiday Period with the use of a rain check will
16 qualify for the reduced rate of tax regardless of when the
17 rain check was issued. Issuance of a rain check during the
18 Sales Tax Holiday Period will not qualify eligible property
19 for the reduced rate of tax if the property is actually
20 purchased after the Sales Tax Holiday Period.

21 (5) Exchanges. The procedure for an exchange in regards
22 to a sales tax holiday is as follows:

23 (A) If a customer purchases an item of eligible
24 property during the Sales Tax Holiday Period, but later
25 exchanges the item for a similar eligible item, even if
26 a different size, different color, or other feature, no

1 additional tax is due even if the exchange is made
2 after the Sales Tax Holiday Period.

3 (B) If a customer purchases an item of eligible
4 property during the Sales Tax Holiday Period, but after
5 the Sales Tax Holiday Period has ended, the customer
6 returns the item and receives credit on the purchase of
7 a different item, the 6.25% general merchandise sales
8 tax rate is due on the sale of the newly purchased
9 item.

10 (C) If a customer purchases an item of eligible
11 property before the Sales Tax Holiday Period, but
12 during the Sales Tax Holiday Period the customer
13 returns the item and receives credit on the purchase of
14 a different item of eligible property, the reduced rate
15 of tax is due on the sale of the new item if the new
16 item is purchased during the Sales Tax Holiday Period.

17 (6) Delivery charges. Delivery charges, including
18 shipping, handling and service charges, are part of the
19 sales price of eligible property.

20 (7) Order date and back orders. For the purpose of a
21 sales tax holiday, eligible property qualifies for the
22 reduced rate of tax if: (i) the item is both delivered to
23 and paid for by the customer during the Sales Tax Holiday
24 Period or (ii) the customer orders and pays for the item
25 and the seller accepts the order during the Sales Tax
26 Holiday Period for immediate shipment, even if delivery is

1 made after the Sales Tax Holiday Period. The seller accepts
2 an order when the seller has taken action to fill the order
3 for immediate shipment. Actions to fill an order include
4 placement of an "in date" stamp on an order or assignment
5 of an "order number" to an order within the Sales Tax
6 Holiday Period. An order is for immediate shipment when the
7 customer does not request delayed shipment. An order is for
8 immediate shipment notwithstanding that the shipment may
9 be delayed because of a backlog of orders or because stock
10 is currently unavailable to, or on back order by, the
11 seller.

12 (8) Returns. For a 60-day period immediately after the
13 Sales Tax Holiday Period, if a customer returns an item
14 that would qualify for the reduced rate of tax, credit for
15 or refund of sales tax shall be given only at the reduced
16 rate unless the customer provides a receipt or invoice that
17 shows tax was paid at the 6.25% general merchandise rate,
18 or the seller has sufficient documentation to show that tax
19 was paid at the 6.25% general merchandise rate on the
20 specific item. This 60-day period is set solely for the
21 purpose of designating a time period during which the
22 customer must provide documentation that shows that the
23 appropriate sales tax rate was paid on returned
24 merchandise. The 60-day period is not intended to change a
25 seller's policy on the time period during which the seller
26 will accept returns.

1 (c) The Department may implement the provisions of this
2 Section through the use of emergency rules, along with
3 permanent rules filed concurrently with such emergency rules,
4 in accordance with the provisions of Section 5-45 of the
5 Illinois Administrative Procedure Act. For purposes of the
6 Illinois Administrative Procedure Act, the adoption of rules to
7 implement the provisions of this Section shall be deemed an
8 emergency and necessary for the public interest, safety, and
9 welfare.

10 (35 ILCS 120/2-10)

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

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

19 Beginning on August 6, 2010 through August 15, 2010, and
20 each year thereafter beginning on the first Friday in August
21 and ending on the Sunday occurring 9 days thereafter, with
22 respect to sales tax holiday items as defined in Section 2-8 of
23 this Act, the tax is imposed at the rate of 1.25%. The reduced
24 rate of tax for sales tax holiday items as defined in Section
25 2-8 of this Act shall not be authorized for periods after

1 August 16, 2013.

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

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

1 With respect to majority blended ethanol fuel, as defined
2 in the Use Tax Act, the tax imposed by this Act does not apply
3 to the proceeds of sales made on or after July 1, 2003 and on or
4 before December 31, 2013 but applies to 100% of the proceeds of
5 sales made 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 proceeds of
9 sales made on or after July 1, 2003 and on or before December
10 31, 2013 and (ii) 100% of the proceeds of sales made
11 thereafter. If, at any time, however, the tax under this Act on
12 sales of biodiesel blends, as defined in the Use Tax Act, with
13 no less than 1% and no more than 10% biodiesel is imposed at
14 the rate of 1.25%, then the tax imposed by this Act applies to
15 100% of the proceeds of sales of biodiesel blends with no less
16 than 1% and no more than 10% biodiesel made during that time.

17 With respect to 100% biodiesel, as defined in the Use Tax
18 Act, and biodiesel blends, as defined in the Use Tax Act, 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, 2013 but
22 applies to 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, soft drinks, and food that has been
26 prepared for immediate consumption) and prescription and

1 nonprescription medicines, drugs, medical appliances,
2 modifications to a motor vehicle for the purpose of rendering
3 it usable by a disabled person, and insulin, urine testing
4 materials, syringes, and needles used by diabetics, for human
5 use, the tax is imposed at the rate of 1%. For the purposes of
6 this Section, until September 1, 2009: 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 bottle, can, carton, or container, regardless
13 of size; but "soft drinks" does not include coffee, tea,
14 non-carbonated water, infant formula, milk or milk products as
15 defined in the Grade A Pasteurized Milk and Milk Products Act,
16 or drinks containing 50% or more natural fruit or vegetable
17 juice.

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

24 Until August 1, 2009, and notwithstanding any other
25 provisions of this Act, "food for human consumption that is to
26 be consumed off the premises where it is sold" includes all

1 food sold through a vending machine, except soft drinks⁷ and
2 food products that are dispensed hot from a vending machine,
3 regardless of the location of the vending machine. Beginning
4 August 1, 2009, and notwithstanding any other provisions of
5 this Act, "food for human consumption that is to be consumed
6 off the premises where it is sold" includes all food sold
7 through a vending machine, except soft drinks, candy, and food
8 products that are dispensed hot from a vending machine,
9 regardless of the location of the vending machine.

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

19 Notwithstanding any other provisions of this Act,
20 beginning September 1, 2009, "nonprescription medicines and
21 drugs" does not include grooming and hygiene products. For
22 purposes of this Section, "grooming and hygiene products"
23 includes, but is not limited to, soaps and cleaning solutions,
24 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
25 lotions and screens, unless those products are available by
26 prescription only, regardless of whether the products meet the

1 definition of "over-the-counter-drugs". For the purposes of
2 this paragraph, "over-the-counter-drug" means a drug for human
3 use that contains a label that identifies the product as a drug
4 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
5 label includes:

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

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

10 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
11 eff. 7-13-09; revised 8-20-09.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law."