



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB0230

by Rep. Jack D. Franks

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-10	
35 ILCS 110/3-10	from Ch. 120, par. 439.33-10
35 ILCS 115/3-10	from Ch. 120, par. 439.103-10
35 ILCS 120/2-10	
35 ILCS 120/2d	from Ch. 120, par. 441d

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that motor fuel is exempt from taxation under the Acts. Effective immediately.

LRB099 04105 HLH 24124 b

FISCAL NOTE ACT
MAY APPLY

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 Use Tax Act is amended by changing Section
5 3-10 as follows:

6 (35 ILCS 105/3-10)

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
17 value, if any, of the specific property so used in this State
18 or on the selling price of the property purchased at retail.
19 For purposes of this Section "fair market value" means the
20 price at which property would change hands between a willing
21 buyer and a willing seller, neither being under any compulsion
22 to buy or sell and both having reasonable knowledge of the
23 relevant facts. The fair market value shall be established by

1 Illinois sales by the taxpayer of the same property as that
2 functionally used or consumed, or if there are no such sales by
3 the taxpayer, then comparable sales or purchases of property of
4 like kind and character in Illinois.

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

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

12 With respect to gasohol, the tax imposed by this Act
13 applies to (i) 70% of the proceeds of sales made on or after
14 January 1, 1990, and before July 1, 2003 and, (ii) 80% of the
15 proceeds of sales made on or after July 1, 2003 and on or
16 before June 30, 2015 ~~December 31, 2018,~~ and ~~(iii) 100% of the~~
17 ~~proceeds of sales made thereafter. If, at any time, however,~~
18 ~~the tax under this Act on sales of gasohol is imposed at the~~
19 ~~rate of 1.25%, then the tax imposed by this Act applies to 100%~~
20 ~~of the proceeds of sales of gasohol made during that time.~~

21 With respect to majority blended ethanol fuel, the tax
22 imposed by this Act does not apply to the proceeds of sales
23 made on or after July 1, 2003 ~~and on or before December 31,~~
24 ~~2018 but applies to 100% of the proceeds of sales made~~
25 ~~thereafter.~~

26 With respect to biodiesel blends with no less than 1% and

1 no more than 10% biodiesel, the tax imposed by this Act applies
2 to ~~(i)~~ 80% of the proceeds of sales made on or after July 1,
3 2003 and on or before June 30, 2015 ~~December 31, 2018~~ and ~~(ii)~~
4 ~~100% of the proceeds of sales made thereafter. If, at any time,~~
5 ~~however, the tax under this Act on sales of biodiesel blends~~
6 ~~with no less than 1% and no more than 10% biodiesel is imposed~~
7 ~~at the rate of 1.25%, then the tax imposed by this Act applies~~
8 ~~to 100% of the proceeds of sales of biodiesel blends with no~~
9 ~~less than 1% and no more than 10% biodiesel made during that~~
10 ~~time.~~

11 With respect to 100% biodiesel and biodiesel blends with
12 more than 10% but no more than 99% biodiesel, the tax imposed
13 by this Act does not apply to the proceeds of sales made on or
14 after July 1, 2003 ~~and on or before December 31, 2018~~ but
15 ~~applies to 100% of the proceeds of sales made thereafter.~~

16 Beginning on July 1, 2015, the use of motor fuel, as
17 defined in Section 1.1 of the Motor Fuel Tax Act, is exempt
18 from the tax imposed by this Act. For the purposes of this
19 exemption, "motor fuel" includes, but is not limited to,
20 gasohol, majority blended ethanol fuel, biodiesel, and
21 biodiesel blends. This paragraph is exempt from the provisions
22 of Section 3-90.

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

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

22 (Source: P.A. 97-636, eff. 6-1-12; 98-122, eff. 1-1-14.)

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

1 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

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

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

12 With respect to gasohol, as defined in the Use Tax Act, the
13 tax imposed by this Act applies to (i) 70% of the selling price
14 of property transferred as an incident to the sale of service
15 on or after January 1, 1990, and before July 1, 2003 and (ii)
16 80% of the selling price of property transferred as an incident
17 to the sale of service on or after July 1, 2003 and on or before
18 June 30, 2015 ~~December 31, 2018,~~ and (iii) ~~100% of the selling~~
19 ~~price thereafter. If, at any time, however, the tax under this~~
20 ~~Act on sales of gasohol, as defined in the Use Tax Act, is~~
21 ~~imposed at the rate of 1.25%, then the tax imposed by this Act~~
22 ~~applies to 100% of the proceeds of sales of gasohol made during~~
23 ~~that time.~~

24 With respect to majority blended ethanol fuel, as defined
25 in the Use Tax Act, the tax imposed by this Act does not apply
26 to the selling price of property transferred as an incident to

1 the sale of service on or after July 1, 2003 ~~and on or before~~
2 ~~December 31, 2018 but applies to 100% of the selling price~~
3 ~~thereafter.~~

4 With respect to biodiesel blends, as defined in the Use Tax
5 Act, with no less than 1% and no more than 10% biodiesel, the
6 tax imposed by this Act applies to ~~(i)~~ 80% of the selling price
7 of property transferred as an incident to the sale of service
8 on or after July 1, 2003 and on or before June 30, 2015
9 ~~December 31, 2018 and (ii) 100% of the proceeds of the selling~~
10 ~~price thereafter. If, at any time, however, the tax under this~~
11 ~~Act on sales of biodiesel blends, as defined in the Use Tax~~
12 ~~Act, with no less than 1% and no more than 10% biodiesel is~~
13 ~~imposed at the rate of 1.25%, then the tax imposed by this Act~~
14 ~~applies to 100% of the proceeds of sales of biodiesel blends~~
15 ~~with no less than 1% and no more than 10% biodiesel made during~~
16 ~~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 the selling price
21 of property transferred as an incident to the sale of service
22 on or after July 1, 2003 ~~and on or before December 31, 2018 but~~
23 ~~applies to 100% of the selling price thereafter.~~

24 Beginning on July 1, 2015, the use of motor fuel, as
25 defined in Section 1.1 of the Motor Fuel Tax Act, is exempt
26 from the tax imposed by this Act. For the purposes of this

1 exemption, "motor fuel" includes, but is not limited to,
2 gasohol, majority blended ethanol fuel, biodiesel, and
3 biodiesel blends. This paragraph is exempt from the provisions
4 of Section 3-75.

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

15 The tax shall be imposed at the rate of 1% on food prepared
16 for immediate consumption and transferred incident to a sale of
17 service subject to this Act or the Service Occupation Tax Act
18 by an entity licensed under the Hospital Licensing Act, the
19 Nursing Home Care Act, the ID/DD Community Care Act, the
20 Specialized Mental Health Rehabilitation Act of 2013, or the
21 Child Care Act of 1969. The tax shall also be imposed at the
22 rate of 1% on food for human consumption that is to be consumed
23 off the premises where it is sold (other than alcoholic
24 beverages, soft drinks, and food that has been prepared for
25 immediate consumption and is not otherwise included in this
26 paragraph) and prescription and nonprescription medicines,

1 drugs, medical appliances, modifications to a motor vehicle for
2 the purpose of rendering it usable by a disabled person, and
3 insulin, urine testing materials, syringes, and needles used by
4 diabetics, for human use. For the purposes of this Section,
5 until September 1, 2009: the term "soft drinks" means any
6 complete, finished, ready-to-use, non-alcoholic drink, whether
7 carbonated or not, including but not limited to soda water,
8 cola, fruit juice, vegetable juice, carbonated water, and all
9 other preparations commonly known as soft drinks of whatever
10 kind or description that are contained in any closed or sealed
11 bottle, can, carton, or container, regardless of size; but
12 "soft drinks" does not include coffee, tea, non-carbonated
13 water, infant formula, milk or milk products as defined in the
14 Grade A Pasteurized Milk and Milk Products Act, or drinks
15 containing 50% or more natural fruit or vegetable juice.

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

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

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

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

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

1 use that contains a label that identifies the product as a drug
2 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
3 label includes:

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

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

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

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

20 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-636,
21 eff. 6-1-12; 98-104, eff. 7-22-13; 98-122, eff. 1-1-14; 98-756,
22 eff. 7-16-14.)

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

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

2 Sec. 3-10. Rate of tax. Unless otherwise provided in this
3 Section, the tax imposed by this Act is at the rate of 6.25% of
4 the "selling price", as defined in Section 2 of the Service Use
5 Tax Act, of the tangible personal property. For the purpose of
6 computing this tax, in no event shall the "selling price" be
7 less than the cost price to the serviceman of the tangible
8 personal property transferred. The selling price of each item
9 of tangible personal property transferred as an incident of a
10 sale of service may be shown as a distinct and separate item on
11 the serviceman's billing to the service customer. If the
12 selling price is not so shown, the selling price of the
13 tangible personal property is deemed to be 50% of the
14 serviceman's entire billing to the service customer. When,
15 however, a serviceman contracts to design, develop, and produce
16 special order machinery or equipment, the tax imposed by this
17 Act shall be based on the serviceman's cost price of the
18 tangible personal property transferred incident to the
19 completion of the contract.

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

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

1 service on or after January 1, 1990, and before July 1, 2003
2 ~~and~~, (ii) 80% of the selling price of property transferred as
3 an incident to the sale of service on or after July 1, 2003 and
4 on or before June 30, 2015 ~~December 31, 2018~~, and (iii) ~~100% of~~
5 ~~the cost price thereafter. If, at any time, however, the tax~~
6 ~~under this Act on sales of gasohol, as defined in the Use Tax~~
7 ~~Act, is imposed at the rate of 1.25%, then the tax imposed by~~
8 ~~this Act applies to 100% of the proceeds of sales of gasohol~~
9 ~~made during that time.~~

10 With respect to majority blended ethanol fuel, as defined
11 in the Use Tax Act, the tax imposed by this Act does not apply
12 to the selling price of property transferred as an incident to
13 the sale of service on or after July 1, 2003 ~~and on or before~~
14 ~~December 31, 2018 but applies to 100% of the selling price~~
15 ~~thereafter.~~

16 With respect to biodiesel blends, as defined in the Use Tax
17 Act, with no less than 1% and no more than 10% biodiesel, the
18 tax imposed by this Act applies to ~~(i)~~ 80% of the selling price
19 of property transferred as an incident to the sale of service
20 on or after July 1, 2003 and on or before June 30, 2015
21 ~~December 31, 2018 and (ii) 100% of the proceeds of the selling~~
22 ~~price thereafter. If, at any time, however, the tax under this~~
23 ~~Act on sales of biodiesel blends, as defined in the Use Tax~~
24 ~~Act, with no less than 1% and no more than 10% biodiesel is~~
25 ~~imposed at the rate of 1.25%, then the tax imposed by this Act~~
26 ~~applies to 100% of the proceeds of sales of biodiesel blends~~

1 ~~with no less than 1% and no more than 10% biodiesel made during~~
2 ~~that time.~~

3 With respect to 100% biodiesel, as defined in the Use Tax
4 Act, and biodiesel blends, as defined in the Use Tax Act, with
5 more than 10% but no more than 99% biodiesel material, the tax
6 imposed by this Act does not apply to the proceeds of the
7 selling price of property transferred as an incident to the
8 sale of service on or after July 1, 2003 ~~and on or before~~
9 ~~December 31, 2018 but applies to 100% of the selling price~~
10 ~~thereafter.~~

11 Beginning on July 1, 2015, gross receipts from the sale of
12 motor fuel, as defined in Section 1.1 of the Motor Fuel Tax
13 Act, are exempt from the tax imposed by this Act. For the
14 purposes of this exemption, "motor fuel" includes, but is not
15 limited to, gasohol, majority blended ethanol fuel, biodiesel,
16 and biodiesel blends. This paragraph is exempt from the
17 provisions of Section 3-55.

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

1 the sale of those services.

2 The tax shall be imposed at the rate of 1% on food prepared
3 for immediate consumption and transferred incident to a sale of
4 service subject to this Act or the Service Occupation Tax Act
5 by an entity licensed under the Hospital Licensing Act, the
6 Nursing Home Care Act, the ID/DD Community Care Act, the
7 Specialized Mental Health Rehabilitation Act of 2013, or the
8 Child Care Act of 1969. The tax shall also be imposed at the
9 rate of 1% on food for human consumption that is to be consumed
10 off the premises where it is sold (other than alcoholic
11 beverages, 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, modifications to a motor vehicle for
15 the purpose of rendering it usable by a disabled person, and
16 insulin, urine testing materials, syringes, and needles used by
17 diabetics, for human use. For the purposes of this Section,
18 until September 1, 2009: the term "soft drinks" means any
19 complete, finished, ready-to-use, non-alcoholic drink, whether
20 carbonated or not, including but not limited to soda water,
21 cola, fruit juice, vegetable juice, carbonated water, and all
22 other preparations commonly known as soft drinks of whatever
23 kind or description that are contained in any closed or sealed
24 can, carton, or container, regardless of size; but "soft
25 drinks" does not include coffee, tea, non-carbonated water,
26 infant formula, milk or milk products as defined in the Grade A

1 Pasteurized Milk and Milk Products Act, or drinks containing
2 50% or more natural fruit or vegetable juice.

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

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

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

1 ingredients or flavorings in the form of bars, drops, or
2 pieces. "Candy" does not include any preparation that contains
3 flour or requires refrigeration.

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

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

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

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

26 (Source: P.A. 97-38, eff. 6-28-11; 97-227, eff. 1-1-12; 97-636,

1 eff. 6-1-12; 98-104, eff. 7-22-13; 98-122, eff. 1-1-14; 98-756,
2 eff. 7-16-14.)

3 Section 20. The Retailers' Occupation Tax Act is amended by
4 changing Sections 2-10 and 2d as follows:

5 (35 ILCS 120/2-10)

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

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

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

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

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

8 With respect to gasohol, as defined in the Use Tax Act, the
9 tax imposed by this Act applies to (i) 70% of the proceeds of
10 sales made on or after January 1, 1990, and before July 1, 2003
11 and, (ii) 80% of the proceeds of sales made on or after July 1,
12 2003 and on or before June 30, 2015 ~~December 31, 2018, and~~
13 ~~(iii) 100% of the proceeds of sales made thereafter. If, at any~~
14 ~~time, however, the tax under this Act on sales of gasohol, as~~
15 ~~defined in the Use Tax Act, is imposed at the rate of 1.25%,~~
16 ~~then the tax imposed by this Act applies to 100% of the~~
17 ~~proceeds of sales of gasohol made during that time.~~

18 With respect to majority blended ethanol fuel, as defined
19 in the Use Tax Act, the tax imposed by this Act does not apply
20 to the proceeds of sales made on or after July 1, 2003 ~~and on or~~
21 ~~before December 31, 2018 but applies to 100% of the proceeds of~~
22 ~~sales made thereafter.~~

23 With respect to biodiesel blends, as defined in the Use Tax
24 Act, with no less than 1% and no more than 10% biodiesel, the
25 tax imposed by this Act applies to ~~(i)~~ 80% of the proceeds of
26 sales made on or after July 1, 2003 and on or before June 30,

1 ~~2015 December 31, 2018 and (ii) 100% of the proceeds of sales~~
2 ~~made thereafter. If, at any time, however, the tax under this~~
3 ~~Act on sales of biodiesel blends, as defined in the Use Tax~~
4 ~~Act, with no less than 1% and no more than 10% biodiesel is~~
5 ~~imposed at the rate of 1.25%, then the tax imposed by this Act~~
6 ~~applies to 100% of the proceeds of sales of biodiesel blends~~
7 ~~with no less than 1% and no more than 10% biodiesel made during~~
8 ~~that time.~~

9 With respect to 100% biodiesel, as defined in the Use Tax
10 Act, and biodiesel blends, as defined in the Use Tax Act, with
11 more than 10% but no more than 99% biodiesel, the tax imposed
12 by this Act does not apply to the proceeds of sales made on or
13 after July 1, 2003 ~~and on or before December 31, 2018 but~~
14 ~~applies to 100% of the proceeds of sales made thereafter.~~

15 Beginning on July 1, 2015, gross receipts from the sale of
16 motor fuel, as defined in Section 1.1 of the Motor Fuel Tax
17 Act, are exempt from the tax imposed by this Act. For the
18 purposes of this exemption, "motor fuel" includes, but is not
19 limited to, gasohol, majority blended ethanol fuel, biodiesel,
20 and biodiesel blends. This paragraph is exempt from the
21 provisions of Section 2-70.

22 With respect to food for human consumption that is to be
23 consumed off the premises where it is sold (other than
24 alcoholic beverages, soft drinks, and food that has been
25 prepared for immediate consumption) and prescription and
26 nonprescription medicines, drugs, medical appliances,

1 modifications to a motor vehicle for the purpose of rendering
2 it usable by a disabled person, and insulin, urine testing
3 materials, syringes, and needles used by diabetics, for human
4 use, the tax is imposed at the rate of 1%. For the purposes of
5 this Section, until September 1, 2009: the term "soft drinks"
6 means any complete, finished, ready-to-use, non-alcoholic
7 drink, whether carbonated or not, including but not limited to
8 soda water, cola, fruit juice, vegetable juice, carbonated
9 water, and all other preparations commonly known as soft drinks
10 of whatever kind or description that are contained in any
11 closed or sealed bottle, can, carton, or container, regardless
12 of size; but "soft drinks" does not include coffee, tea,
13 non-carbonated water, infant formula, milk or milk products as
14 defined in the Grade A Pasteurized Milk and Milk Products Act,
15 or drinks containing 50% or more natural fruit or vegetable
16 juice.

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

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

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

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

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

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

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

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

9 Beginning on the effective date of this amendatory Act of
10 the 98th General Assembly, "prescription and nonprescription
11 medicines and drugs" includes medical cannabis purchased from a
12 registered dispensing organization under the Compassionate Use
13 of Medical Cannabis Pilot Program Act.

14 (Source: P.A. 97-636, eff. 6-1-12; 98-122, eff. 1-1-14.)

15 (35 ILCS 120/2d) (from Ch. 120, par. 441d)

16 Sec. 2d. Tax prepayment by motor fuel retailer.

17 (a) Until July 1, 2015, any ~~Any~~ person engaged in the
18 business of selling motor fuel at retail, as defined in the
19 Motor Fuel Tax Law, and who is not a licensed distributor or
20 supplier, as defined in the Motor Fuel Tax Law, shall prepay to
21 his or her distributor, supplier, or other reseller of motor
22 fuel a portion of the tax imposed by this Act if the
23 distributor, supplier, or other reseller of motor fuel is
24 registered under Section 2a or Section 2c of this Act. The
25 prepayment requirement provided for in this Section does not

1 apply to liquid propane gas.

2 (b) Beginning on July 1, 2000 and through December 31,
3 2000, the Retailers' Occupation Tax paid to the distributor,
4 supplier, or other reseller shall be an amount equal to \$0.01
5 per gallon of the motor fuel, except gasohol as defined in
6 Section 2-10 of this Act which shall be an amount equal to
7 \$0.01 per gallon, purchased from the distributor, supplier, or
8 other reseller.

9 (c) Before July 1, 2000 and then beginning on January 1,
10 2001 and through June 30, 2003, the Retailers' Occupation Tax
11 paid to the distributor, supplier, or other reseller shall be
12 an amount equal to \$0.04 per gallon of the motor fuel, except
13 gasohol as defined in Section 2-10 of this Act which shall be
14 an amount equal to \$0.03 per gallon, purchased from the
15 distributor, supplier, or other reseller.

16 (d) Beginning July 1, 2003 and through December 31, 2010,
17 the Retailers' Occupation Tax paid to the distributor,
18 supplier, or other reseller shall be an amount equal to \$0.06
19 per gallon of the motor fuel, except gasohol as defined in
20 Section 2-10 of this Act which shall be an amount equal to
21 \$0.05 per gallon, purchased from the distributor, supplier, or
22 other reseller.

23 (e) Beginning on January 1, 2011 and until July 1, 2015
24 ~~thereafter~~, the Retailers' Occupation Tax paid to the
25 distributor, supplier, or other reseller shall be at the rate
26 established by the Department under this subsection. The rate

1 shall be established by the Department on January 1 and July 1
2 of each year using the average selling price, as defined in
3 Section 1 of this Act, per gallon of motor fuel sold in the
4 State during the previous 6 months and multiplying that amount
5 by 6.25% to determine the cents per gallon rate. In the case of
6 biodiesel blends, as defined in Section 3-42 of the Use Tax
7 Act, with no less than 1% and no more than 10% biodiesel, and
8 in the case of gasohol, as defined in Section 3-40 of the Use
9 Tax Act, the rate shall be 80% of the rate established by the
10 Department under this subsection for motor fuel. The Department
11 shall provide persons subject to this Section notice of the
12 rate established under this subsection at least 20 days prior
13 to each January 1 and July 1. Publication of the established
14 rate on the Department's internet website shall constitute
15 sufficient notice under this Section. The Department may use
16 data derived from independent surveys conducted or accumulated
17 by third parties to determine the average selling price per
18 gallon of motor fuel sold in the State.

19 (f) Any person engaged in the business of selling motor
20 fuel at retail shall be entitled to a credit against tax due
21 under this Act in an amount equal to the tax paid to the
22 distributor, supplier, or other reseller.

23 (g) Every distributor, supplier, or other reseller
24 registered as provided in Section 2a or Section 2c of this Act
25 shall remit the prepaid tax on all motor fuel that is due from
26 any person engaged in the business of selling at retail motor

1 fuel with the returns filed under Section 2f or Section 3 of
2 this Act, but the vendors discount provided in Section 3 shall
3 not apply to the amount of prepaid tax that is remitted. Any
4 distributor or supplier who fails to properly collect and remit
5 the tax shall be liable for the tax. For purposes of this
6 Section, the prepaid tax is due on invoiced gallons sold during
7 a month by the 20th day of the following month.

8 (Source: P.A. 96-1384, eff. 7-29-10.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.