

SB3321



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3321

Introduced 2/7/2012, by Sen. Toi W. Hutchinson

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.

LRB097 19018 HLH 64257 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 (Text of Section before amendment by P.A. 97-636)

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

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

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

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

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

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

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

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

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

17 With respect to food for human consumption that is to be
18 consumed off the premises where it is sold (other than
19 alcoholic beverages, soft drinks, and food that has been
20 prepared for immediate consumption) and prescription and
21 nonprescription medicines, drugs, medical appliances,
22 modifications to a motor vehicle for the purpose of rendering
23 it usable by a disabled person, and insulin, urine testing
24 materials, syringes, and needles used by diabetics, for human
25 use, the tax is imposed at the rate of 1%. For the purposes of
26 this Section, until September 1, 2009: the term "soft drinks"

1 means any complete, finished, ready-to-use, non-alcoholic
2 drink, whether carbonated or not, including but not limited to
3 soda water, cola, fruit juice, vegetable juice, carbonated
4 water, and all other preparations commonly known as soft drinks
5 of whatever kind or description that are contained in any
6 closed or sealed bottle, can, carton, or container, regardless
7 of size; but "soft drinks" does not include coffee, tea,
8 non-carbonated water, infant formula, milk or milk products as
9 defined in the Grade A Pasteurized Milk and Milk Products Act,
10 or drinks containing 50% or more natural fruit or vegetable
11 juice.

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

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

1 through a vending machine, except soft drinks, candy, and food
2 products that are dispensed hot from a vending machine,
3 regardless of the location of the vending machine.

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

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

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

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

4 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
5 eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1012, eff. 7-7-10.)

6 (Text of Section after amendment by P.A. 97-636)

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15 in the Use Tax Act, is imposed at the rate of 1.25%, then the
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17 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 December

1 31, 2018 and (ii) 100% of the proceeds of sales made
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9 Act, and biodiesel blends, as defined in the Use Tax Act, with
10 more than 10% but no more than 99% biodiesel, the tax imposed
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12 after July 1, 2003 and on or before December 31, 2018 but
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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
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2 eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1012, eff. 7-7-10;
3 97-636, eff. 6-1-12.)

4 Section 95. No acceleration or delay. Where this Act makes
5 changes in a statute that is represented in this Act by text
6 that is not yet or no longer in effect (for example, a Section
7 represented by multiple versions), the use of that text does
8 not accelerate or delay the taking effect of (i) the changes
9 made by this Act or (ii) provisions derived from any other
10 Public Act.