



Sen. Elgie R. Sims, Jr.

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10200SB2202sam001

LRB102 15832 HLH 24724 a

1 AMENDMENT TO SENATE BILL 2202

2 AMENDMENT NO. _____. Amend Senate Bill 2202 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Use Tax Act is amended by changing
5 Sections 2 and 3-10 as follows:

6 (35 ILCS 105/2) (from Ch. 120, par. 439.2)

7 Sec. 2. Definitions.

8 "Use" means the exercise by any person of any right or
9 power over tangible personal property incident to the
10 ownership of that property, except that it does not include
11 the sale of such property in any form as tangible personal
12 property in the regular course of business to the extent that
13 such property is not first subjected to a use for which it was
14 purchased, and does not include the use of such property by its
15 owner for demonstration purposes: Provided that the property
16 purchased is deemed to be purchased for the purpose of resale,

1 despite first being used, to the extent to which it is resold
2 as an ingredient of an intentionally produced product or
3 by-product of manufacturing. "Use" does not mean the
4 demonstration use or interim use of tangible personal property
5 by a retailer before he sells that tangible personal property.
6 For watercraft or aircraft, if the period of demonstration use
7 or interim use by the retailer exceeds 18 months, the retailer
8 shall pay on the retailers' original cost price the tax
9 imposed by this Act, and no credit for that tax is permitted if
10 the watercraft or aircraft is subsequently sold by the
11 retailer. "Use" does not mean the physical incorporation of
12 tangible personal property, to the extent not first subjected
13 to a use for which it was purchased, as an ingredient or
14 constituent, into other tangible personal property (a) which
15 is sold in the regular course of business or (b) which the
16 person incorporating such ingredient or constituent therein
17 has undertaken at the time of such purchase to cause to be
18 transported in interstate commerce to destinations outside the
19 State of Illinois: Provided that the property purchased is
20 deemed to be purchased for the purpose of resale, despite
21 first being used, to the extent to which it is resold as an
22 ingredient of an intentionally produced product or by-product
23 of manufacturing.

24 "Watercraft" means a Class 2, Class 3, or Class 4
25 watercraft as defined in Section 3-2 of the Boat Registration
26 and Safety Act, a personal watercraft, or any boat equipped

1 with an inboard motor.

2 "Purchase at retail" means the acquisition of the
3 ownership of or title to tangible personal property through a
4 sale at retail.

5 "Purchaser" means anyone who, through a sale at retail,
6 acquires the ownership of tangible personal property for a
7 valuable consideration.

8 "Sale at retail" means any transfer of the ownership of or
9 title to tangible personal property to a purchaser, for the
10 purpose of use, and not for the purpose of resale in any form
11 as tangible personal property to the extent not first
12 subjected to a use for which it was purchased, for a valuable
13 consideration: Provided that the property purchased is deemed
14 to be purchased for the purpose of resale, despite first being
15 used, to the extent to which it is resold as an ingredient of
16 an intentionally produced product or by-product of
17 manufacturing. For this purpose, slag produced as an incident
18 to manufacturing pig iron or steel and sold is considered to be
19 an intentionally produced by-product of manufacturing. "Sale
20 at retail" includes any such transfer made for resale unless
21 made in compliance with Section 2c of the Retailers'
22 Occupation Tax Act, as incorporated by reference into Section
23 12 of this Act. Transactions whereby the possession of the
24 property is transferred but the seller retains the title as
25 security for payment of the selling price are sales.

26 "Sale at retail" shall also be construed to include any

1 Illinois florist's sales transaction in which the purchase
2 order is received in Illinois by a florist and the sale is for
3 use or consumption, but the Illinois florist has a florist in
4 another state deliver the property to the purchaser or the
5 purchaser's donee in such other state.

6 Nonreusable tangible personal property that is used by
7 persons engaged in the business of operating a restaurant,
8 cafeteria, or drive-in is a sale for resale when it is
9 transferred to customers in the ordinary course of business as
10 part of the sale of food or beverages and is used to deliver,
11 package, or consume food or beverages, regardless of where
12 consumption of the food or beverages occurs. Examples of those
13 items include, but are not limited to nonreusable, paper and
14 plastic cups, plates, baskets, boxes, sleeves, buckets or
15 other containers, utensils, straws, placemats, napkins, doggie
16 bags, and wrapping or packaging materials that are transferred
17 to customers as part of the sale of food or beverages in the
18 ordinary course of business.

19 The purchase, employment and transfer of such tangible
20 personal property as newsprint and ink for the primary purpose
21 of conveying news (with or without other information) is not a
22 purchase, use or sale of tangible personal property.

23 "Selling price" means the consideration for a sale valued
24 in money whether received in money or otherwise, including
25 cash, credits, property other than as hereinafter provided,
26 and services, but, prior to January 1, 2020, not including the

1 value of or credit given for traded-in tangible personal
2 property where the item that is traded-in is of like kind and
3 character as that which is being sold; beginning January 1,
4 2020, "selling price" includes the portion of the value of or
5 credit given for traded-in motor vehicles of the First
6 Division as defined in Section 1-146 of the Illinois Vehicle
7 Code of like kind and character as that which is being sold
8 that exceeds \$10,000. "Selling price" shall be determined
9 without any deduction on account of the cost of the property
10 sold, the cost of materials used, labor or service cost or any
11 other expense whatsoever, but does not include interest or
12 finance charges which appear as separate items on the bill of
13 sale or sales contract nor charges that are added to prices by
14 sellers on account of the seller's tax liability under the
15 Retailers' Occupation Tax Act, or on account of the seller's
16 duty to collect, from the purchaser, the tax that is imposed by
17 this Act, or, except as otherwise provided with respect to any
18 cigarette tax imposed by a home rule unit, on account of the
19 seller's tax liability under any local occupation tax
20 administered by the Department, or, except as otherwise
21 provided with respect to any cigarette tax imposed by a home
22 rule unit on account of the seller's duty to collect, from the
23 purchasers, the tax that is imposed under any local use tax
24 administered by the Department. Effective December 1, 1985,
25 "selling price" shall include charges that are added to prices
26 by sellers on account of the seller's tax liability under the

1 Cigarette Tax Act, on account of the seller's duty to collect,
2 from the purchaser, the tax imposed under the Cigarette Use
3 Tax Act, and on account of the seller's duty to collect, from
4 the purchaser, any cigarette tax imposed by a home rule unit.

5 Notwithstanding any law to the contrary, for any motor
6 vehicle, as defined in Section 1-146 of the Vehicle Code, that
7 is sold on or after January 1, 2015 for the purpose of leasing
8 the vehicle for a defined period that is longer than one year
9 and (1) is a motor vehicle of the second division that: (A) is
10 a self-contained motor vehicle designed or permanently
11 converted to provide living quarters for recreational,
12 camping, or travel use, with direct walk through access to the
13 living quarters from the driver's seat; (B) is of the van
14 configuration designed for the transportation of not less than
15 7 nor more than 16 passengers; or (C) has a gross vehicle
16 weight rating of 8,000 pounds or less or (2) is a motor vehicle
17 of the first division, "selling price" or "amount of sale"
18 means the consideration received by the lessor pursuant to the
19 lease contract, including amounts due at lease signing and all
20 monthly or other regular payments charged over the term of the
21 lease. Also included in the selling price is any amount
22 received by the lessor from the lessee for the leased vehicle
23 that is not calculated at the time the lease is executed,
24 including, but not limited to, excess mileage charges and
25 charges for excess wear and tear. For sales that occur in
26 Illinois, with respect to any amount received by the lessor

1 from the lessee for the leased vehicle that is not calculated
2 at the time the lease is executed, the lessor who purchased the
3 motor vehicle does not incur the tax imposed by the Use Tax Act
4 on those amounts, and the retailer who makes the retail sale of
5 the motor vehicle to the lessor is not required to collect the
6 tax imposed by this Act or to pay the tax imposed by the
7 Retailers' Occupation Tax Act on those amounts. However, the
8 lessor who purchased the motor vehicle assumes the liability
9 for reporting and paying the tax on those amounts directly to
10 the Department in the same form (Illinois Retailers'
11 Occupation Tax, and local retailers' occupation taxes, if
12 applicable) in which the retailer would have reported and paid
13 such tax if the retailer had accounted for the tax to the
14 Department. For amounts received by the lessor from the lessee
15 that are not calculated at the time the lease is executed, the
16 lessor must file the return and pay the tax to the Department
17 by the due date otherwise required by this Act for returns
18 other than transaction returns. If the retailer is entitled
19 under this Act to a discount for collecting and remitting the
20 tax imposed under this Act to the Department with respect to
21 the sale of the motor vehicle to the lessor, then the right to
22 the discount provided in this Act shall be transferred to the
23 lessor with respect to the tax paid by the lessor for any
24 amount received by the lessor from the lessee for the leased
25 vehicle that is not calculated at the time the lease is
26 executed; provided that the discount is only allowed if the

1 return is timely filed and for amounts timely paid. The
2 "selling price" of a motor vehicle that is sold on or after
3 January 1, 2015 for the purpose of leasing for a defined period
4 of longer than one year shall not be reduced by the value of or
5 credit given for traded-in tangible personal property owned by
6 the lessor, nor shall it be reduced by the value of or credit
7 given for traded-in tangible personal property owned by the
8 lessee, regardless of whether the trade-in value thereof is
9 assigned by the lessee to the lessor. In the case of a motor
10 vehicle that is sold for the purpose of leasing for a defined
11 period of longer than one year, the sale occurs at the time of
12 the delivery of the vehicle, regardless of the due date of any
13 lease payments. A lessor who incurs a Retailers' Occupation
14 Tax liability on the sale of a motor vehicle coming off lease
15 may not take a credit against that liability for the Use Tax
16 the lessor paid upon the purchase of the motor vehicle (or for
17 any tax the lessor paid with respect to any amount received by
18 the lessor from the lessee for the leased vehicle that was not
19 calculated at the time the lease was executed) if the selling
20 price of the motor vehicle at the time of purchase was
21 calculated using the definition of "selling price" as defined
22 in this paragraph. Notwithstanding any other provision of this
23 Act to the contrary, lessors shall file all returns and make
24 all payments required under this paragraph to the Department
25 by electronic means in the manner and form as required by the
26 Department. This paragraph does not apply to leases of motor

1 vehicles for which, at the time the lease is entered into, the
2 term of the lease is not a defined period, including leases
3 with a defined initial period with the option to continue the
4 lease on a month-to-month or other basis beyond the initial
5 defined period.

6 The phrase "like kind and character" shall be liberally
7 construed (including but not limited to any form of motor
8 vehicle for any form of motor vehicle, or any kind of farm or
9 agricultural implement for any other kind of farm or
10 agricultural implement), while not including a kind of item
11 which, if sold at retail by that retailer, would be exempt from
12 retailers' occupation tax and use tax as an isolated or
13 occasional sale.

14 "Department" means the Department of Revenue.

15 "Person" means any natural individual, firm, partnership,
16 association, joint stock company, joint adventure, public or
17 private corporation, limited liability company, or a receiver,
18 executor, trustee, guardian or other representative appointed
19 by order of any court.

20 "Retailer" means and includes every person engaged in the
21 business of making sales at retail as defined in this Section.

22 A person who holds himself or herself out as being engaged
23 (or who habitually engages) in selling tangible personal
24 property at retail is a retailer hereunder with respect to
25 such sales (and not primarily in a service occupation)
26 notwithstanding the fact that such person designs and produces

1 such tangible personal property on special order for the
2 purchaser and in such a way as to render the property of value
3 only to such purchaser, if such tangible personal property so
4 produced on special order serves substantially the same
5 function as stock or standard items of tangible personal
6 property that are sold at retail.

7 A person whose activities are organized and conducted
8 primarily as a not-for-profit service enterprise, and who
9 engages in selling tangible personal property at retail
10 (whether to the public or merely to members and their guests)
11 is a retailer with respect to such transactions, excepting
12 only a person organized and operated exclusively for
13 charitable, religious or educational purposes either (1), to
14 the extent of sales by such person to its members, students,
15 patients or inmates of tangible personal property to be used
16 primarily for the purposes of such person, or (2), to the
17 extent of sales by such person of tangible personal property
18 which is not sold or offered for sale by persons organized for
19 profit. The selling of school books and school supplies by
20 schools at retail to students is not "primarily for the
21 purposes of" the school which does such selling. This
22 paragraph does not apply to nor subject to taxation occasional
23 dinners, social or similar activities of a person organized
24 and operated exclusively for charitable, religious or
25 educational purposes, whether or not such activities are open
26 to the public.

1 A person who is the recipient of a grant or contract under
2 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and
3 serves meals to participants in the federal Nutrition Program
4 for the Elderly in return for contributions established in
5 amount by the individual participant pursuant to a schedule of
6 suggested fees as provided for in the federal Act is not a
7 retailer under this Act with respect to such transactions.

8 Persons who engage in the business of transferring
9 tangible personal property upon the redemption of trading
10 stamps are retailers hereunder when engaged in such business.

11 The isolated or occasional sale of tangible personal
12 property at retail by a person who does not hold himself out as
13 being engaged (or who does not habitually engage) in selling
14 such tangible personal property at retail or a sale through a
15 bulk vending machine does not make such person a retailer
16 hereunder. However, any person who is engaged in a business
17 which is not subject to the tax imposed by the Retailers'
18 Occupation Tax Act because of involving the sale of or a
19 contract to sell real estate or a construction contract to
20 improve real estate, but who, in the course of conducting such
21 business, transfers tangible personal property to users or
22 consumers in the finished form in which it was purchased, and
23 which does not become real estate, under any provision of a
24 construction contract or real estate sale or real estate sales
25 agreement entered into with some other person arising out of
26 or because of such nontaxable business, is a retailer to the

1 extent of the value of the tangible personal property so
2 transferred. If, in such transaction, a separate charge is
3 made for the tangible personal property so transferred, the
4 value of such property, for the purposes of this Act, is the
5 amount so separately charged, but not less than the cost of
6 such property to the transferor; if no separate charge is
7 made, the value of such property, for the purposes of this Act,
8 is the cost to the transferor of such tangible personal
9 property.

10 "Retailer maintaining a place of business in this State",
11 or any like term, means and includes any of the following
12 retailers:

13 (1) A retailer having or maintaining within this
14 State, directly or by a subsidiary, an office,
15 distribution house, sales house, warehouse or other place
16 of business, or any agent or other representative
17 operating within this State under the authority of the
18 retailer or its subsidiary, irrespective of whether such
19 place of business or agent or other representative is
20 located here permanently or temporarily, or whether such
21 retailer or subsidiary is licensed to do business in this
22 State. However, the ownership of property that is located
23 at the premises of a printer with which the retailer has
24 contracted for printing and that consists of the final
25 printed product, property that becomes a part of the final
26 printed product, or copy from which the printed product is

1 produced shall not result in the retailer being deemed to
2 have or maintain an office, distribution house, sales
3 house, warehouse, or other place of business within this
4 State.

5 (1.1) A retailer having a contract with a person
6 located in this State under which the person, for a
7 commission or other consideration based upon the sale of
8 tangible personal property by the retailer, directly or
9 indirectly refers potential customers to the retailer by
10 providing to the potential customers a promotional code or
11 other mechanism that allows the retailer to track
12 purchases referred by such persons. Examples of mechanisms
13 that allow the retailer to track purchases referred by
14 such persons include but are not limited to the use of a
15 link on the person's Internet website, promotional codes
16 distributed through the person's hand-delivered or mailed
17 material, and promotional codes distributed by the person
18 through radio or other broadcast media. The provisions of
19 this paragraph (1.1) shall apply only if the cumulative
20 gross receipts from sales of tangible personal property by
21 the retailer to customers who are referred to the retailer
22 by all persons in this State under such contracts exceed
23 \$10,000 during the preceding 4 quarterly periods ending on
24 the last day of March, June, September, and December. A
25 retailer meeting the requirements of this paragraph (1.1)
26 shall be presumed to be maintaining a place of business in

1 this State but may rebut this presumption by submitting
2 proof that the referrals or other activities pursued
3 within this State by such persons were not sufficient to
4 meet the nexus standards of the United States Constitution
5 during the preceding 4 quarterly periods.

6 (1.2) Beginning July 1, 2011, a retailer having a
7 contract with a person located in this State under which:

8 (A) the retailer sells the same or substantially
9 similar line of products as the person located in this
10 State and does so using an identical or substantially
11 similar name, trade name, or trademark as the person
12 located in this State; and

13 (B) the retailer provides a commission or other
14 consideration to the person located in this State
15 based upon the sale of tangible personal property by
16 the retailer.

17 The provisions of this paragraph (1.2) shall apply
18 only if the cumulative gross receipts from sales of
19 tangible personal property by the retailer to customers in
20 this State under all such contracts exceed \$10,000 during
21 the preceding 4 quarterly periods ending on the last day
22 of March, June, September, and December.

23 (2) (Blank).

24 (3) (Blank).

25 (4) (Blank).

26 (5) (Blank).

1 (6) (Blank).

2 (7) (Blank).

3 (8) (Blank).

4 (9) Beginning October 1, 2018, a retailer making sales
5 of tangible personal property to purchasers in Illinois
6 from outside of Illinois if:

7 (A) the cumulative gross receipts from sales of
8 tangible personal property to purchasers in Illinois
9 are \$100,000 or more; or

10 (B) the retailer enters into 200 or more separate
11 transactions for the sale of tangible personal
12 property to purchasers in Illinois.

13 The retailer shall determine on a quarterly basis,
14 ending on the last day of March, June, September, and
15 December, whether he or she meets the criteria of either
16 subparagraph (A) or (B) of this paragraph (9) for the
17 preceding 12-month period. If the retailer meets the
18 threshold of either subparagraph (A) or (B) for a 12-month
19 period, he or she is considered a retailer maintaining a
20 place of business in this State and is required to collect
21 and remit the tax imposed under this Act and file returns
22 for one year. At the end of that one-year period, the
23 retailer shall determine whether he or she met the
24 threshold of either subparagraph (A) or (B) during the
25 preceding 12-month period. If the retailer met the
26 criteria in either subparagraph (A) or (B) for the

1 preceding 12-month period, he or she is considered a
2 retailer maintaining a place of business in this State and
3 is required to collect and remit the tax imposed under
4 this Act and file returns for the subsequent year. If at
5 the end of a one-year period a retailer that was required
6 to collect and remit the tax imposed under this Act
7 determines that he or she did not meet the threshold in
8 either subparagraph (A) or (B) during the preceding
9 12-month period, the retailer shall subsequently determine
10 on a quarterly basis, ending on the last day of March,
11 June, September, and December, whether he or she meets the
12 threshold of either subparagraph (A) or (B) for the
13 preceding 12-month period.

14 Beginning January 1, 2020, neither the gross receipts
15 from nor the number of separate transactions for sales of
16 tangible personal property to purchasers in Illinois that
17 a retailer makes through a marketplace facilitator and for
18 which the retailer has received a certification from the
19 marketplace facilitator pursuant to Section 2d of this Act
20 shall be included for purposes of determining whether he
21 or she has met the thresholds of this paragraph (9).

22 (10) Beginning January 1, 2020, a marketplace
23 facilitator that meets a threshold set forth in subsection
24 (b) of Section 2d of this Act.

25 "Bulk vending machine" means a vending machine, containing
26 unsorted confections, nuts, toys, or other items designed

1 primarily to be used or played with by children which, when a
2 coin or coins of a denomination not larger than \$0.50 are
3 inserted, are dispensed in equal portions, at random and
4 without selection by the customer.

5 For the purposes of Section 3-10, "manufactured home"
6 means a factory-assembled, completely integrated structure
7 designed for permanent habitation that:

8 (1) is designed to be used as a single-family dwelling
9 which complies with the standards established under Title
10 42 of the United States Code;

11 (2) is transportable in one or more sections;

12 (3) is installed according to the manufacturer's
13 instructions and connected to residential utilities for
14 year-round occupancy; and

15 (4) contains an area of at least 320 square feet.

16 (Source: P.A. 100-587, eff. 6-4-18; 101-9, eff. 6-5-19;
17 101-31, eff. 1-1-20; 101-604, eff. 1-1-20.)

18 (35 ILCS 105/3-10)

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

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

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, with
20 respect to sales tax holiday items as defined in Section 3-6 of
21 this Act, the tax is imposed at the rate of 1.25%.

22 With respect to gasohol, the tax imposed by this Act
23 applies to (i) 70% of the proceeds of sales made on or after
24 January 1, 1990, and before July 1, 2003, (ii) 80% of the
25 proceeds of sales made on or after July 1, 2003 and on or
26 before July 1, 2017, and (iii) 100% of the proceeds of sales

1 made thereafter. If, at any time, however, the tax under this
2 Act on sales of gasohol is imposed at the rate of 1.25%, then
3 the tax imposed by this Act applies to 100% of the proceeds of
4 sales of gasohol made during that time.

5 With respect to majority blended ethanol fuel, the tax
6 imposed by this Act does not apply to the proceeds of sales
7 made on or after July 1, 2003 and on or before December 31,
8 2023 but applies to 100% of the proceeds of sales made
9 thereafter.

10 With respect to biodiesel blends with no less than 1% and
11 no more than 10% biodiesel, the tax imposed by this Act applies
12 to (i) 80% of the proceeds of sales made on or after July 1,
13 2003 and on or before December 31, 2018 and (ii) 100% of the
14 proceeds of sales made thereafter. If, at any time, however,
15 the tax under this Act on sales of biodiesel blends with no
16 less than 1% and no more than 10% biodiesel is imposed at the
17 rate of 1.25%, then the tax imposed by this Act applies to 100%
18 of the proceeds of sales of biodiesel blends with no less than
19 1% and no more than 10% biodiesel made during that time.

20 With respect to 100% biodiesel and biodiesel blends with
21 more than 10% but no more than 99% biodiesel, the tax imposed
22 by this Act does not apply to the proceeds of sales made on or
23 after July 1, 2003 and on or before December 31, 2023 but
24 applies to 100% of the proceeds of sales made thereafter.

25 On and after January 1, 2022, with respect to the sale of a
26 manufactured home, as defined in Section 2, where (i) the

1 purchase is the first purchase of the manufactured home for
2 use as a dwelling and (ii) the taxpayer certifies to the
3 Department that, within 30 days after the sale, the
4 manufactured home will be affixed to a permanent foundation in
5 the State so that the manufactured home is deemed to be real
6 property under the Conveyance and Encumbrance of Manufactured
7 Homes as Real Property and Severance Act, the tax imposed by
8 this Act applies to 50% of the proceeds of sales. The
9 Department may adopt rules to implement the incentive under
10 this paragraph, including rules to require the submission or
11 attachment of documentation of eligibility to receive the
12 incentive. This paragraph is exempt from the provisions of
13 Section 3-90.

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, food consisting of or infused with adult
17 use cannabis, soft drinks, and food that has been prepared for
18 immediate consumption) and prescription and nonprescription
19 medicines, drugs, medical appliances, products classified as
20 Class III medical devices by the United States Food and Drug
21 Administration that are used for cancer treatment pursuant to
22 a prescription, as well as any accessories and components
23 related to those devices, modifications to a motor vehicle for
24 the purpose of rendering it usable by a person with a
25 disability, and insulin, urine testing materials, syringes,
26 and needles used by diabetics, for human use, the tax is

1 imposed at the rate of 1%. For the purposes of this Section,
2 until September 1, 2009: the term "soft drinks" means any
3 complete, finished, ready-to-use, non-alcoholic drink, whether
4 carbonated or not, including but not limited to soda water,
5 cola, fruit juice, vegetable juice, carbonated water, and all
6 other preparations commonly known as soft drinks of whatever
7 kind or description that are contained in any closed or sealed
8 bottle, can, carton, or container, regardless of size; but
9 "soft drinks" does not include coffee, tea, non-carbonated
10 water, infant formula, milk or milk products as defined in the
11 Grade A Pasteurized Milk and Milk Products Act, or drinks
12 containing 50% or more natural fruit or vegetable juice.

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

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

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

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

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

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

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

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

10 As used in this Section, "adult use cannabis" means
11 cannabis subject to tax under the Cannabis Cultivation
12 Privilege Tax Law and the Cannabis Purchaser Excise Tax Law
13 and does not include cannabis subject to tax under the
14 Compassionate Use of Medical Cannabis Program Act.

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

22 (Source: P.A. 100-22, eff. 7-6-17; 101-363, eff. 8-9-19;
23 101-593, eff. 12-4-19.)

24 Section 10. The Retailers' Occupation Tax Act is amended
25 by changing Sections 1 and 2-10 as follows:

1 (35 ILCS 120/1) (from Ch. 120, par. 440)

2 Sec. 1. Definitions. "Sale at retail" means any transfer
3 of the ownership of or title to tangible personal property to a
4 purchaser, for the purpose of use or consumption, and not for
5 the purpose of resale in any form as tangible personal
6 property to the extent not first subjected to a use for which
7 it was purchased, for a valuable consideration: Provided that
8 the property purchased is deemed to be purchased for the
9 purpose of resale, despite first being used, to the extent to
10 which it is resold as an ingredient of an intentionally
11 produced product or byproduct of manufacturing. For this
12 purpose, slag produced as an incident to manufacturing pig
13 iron or steel and sold is considered to be an intentionally
14 produced byproduct of manufacturing. Transactions whereby the
15 possession of the property is transferred but the seller
16 retains the title as security for payment of the selling price
17 shall be deemed to be sales.

18 "Sale at retail" shall be construed to include any
19 transfer of the ownership of or title to tangible personal
20 property to a purchaser, for use or consumption by any other
21 person to whom such purchaser may transfer the tangible
22 personal property without a valuable consideration, and to
23 include any transfer, whether made for or without a valuable
24 consideration, for resale in any form as tangible personal
25 property unless made in compliance with Section 2c of this

1 Act.

2 Sales of tangible personal property, which property, to
3 the extent not first subjected to a use for which it was
4 purchased, as an ingredient or constituent, goes into and
5 forms a part of tangible personal property subsequently the
6 subject of a "Sale at retail", are not sales at retail as
7 defined in this Act: Provided that the property purchased is
8 deemed to be purchased for the purpose of resale, despite
9 first being used, to the extent to which it is resold as an
10 ingredient of an intentionally produced product or byproduct
11 of manufacturing.

12 "Sale at retail" shall be construed to include any
13 Illinois florist's sales transaction in which the purchase
14 order is received in Illinois by a florist and the sale is for
15 use or consumption, but the Illinois florist has a florist in
16 another state deliver the property to the purchaser or the
17 purchaser's donee in such other state.

18 Nonreusable tangible personal property that is used by
19 persons engaged in the business of operating a restaurant,
20 cafeteria, or drive-in is a sale for resale when it is
21 transferred to customers in the ordinary course of business as
22 part of the sale of food or beverages and is used to deliver,
23 package, or consume food or beverages, regardless of where
24 consumption of the food or beverages occurs. Examples of those
25 items include, but are not limited to nonreusable, paper and
26 plastic cups, plates, baskets, boxes, sleeves, buckets or

1 other containers, utensils, straws, placemats, napkins, doggie
2 bags, and wrapping or packaging materials that are transferred
3 to customers as part of the sale of food or beverages in the
4 ordinary course of business.

5 The purchase, employment and transfer of such tangible
6 personal property as newsprint and ink for the primary purpose
7 of conveying news (with or without other information) is not a
8 purchase, use or sale of tangible personal property.

9 A person whose activities are organized and conducted
10 primarily as a not-for-profit service enterprise, and who
11 engages in selling tangible personal property at retail
12 (whether to the public or merely to members and their guests)
13 is engaged in the business of selling tangible personal
14 property at retail with respect to such transactions,
15 excepting only a person organized and operated exclusively for
16 charitable, religious or educational purposes either (1), to
17 the extent of sales by such person to its members, students,
18 patients or inmates of tangible personal property to be used
19 primarily for the purposes of such person, or (2), to the
20 extent of sales by such person of tangible personal property
21 which is not sold or offered for sale by persons organized for
22 profit. The selling of school books and school supplies by
23 schools at retail to students is not "primarily for the
24 purposes of" the school which does such selling. The
25 provisions of this paragraph shall not apply to nor subject to
26 taxation occasional dinners, socials or similar activities of

1 a person organized and operated exclusively for charitable,
2 religious or educational purposes, whether or not such
3 activities are open to the public.

4 A person who is the recipient of a grant or contract under
5 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and
6 serves meals to participants in the federal Nutrition Program
7 for the Elderly in return for contributions established in
8 amount by the individual participant pursuant to a schedule of
9 suggested fees as provided for in the federal Act is not
10 engaged in the business of selling tangible personal property
11 at retail with respect to such transactions.

12 "Purchaser" means anyone who, through a sale at retail,
13 acquires the ownership of or title to tangible personal
14 property for a valuable consideration.

15 "Reseller of motor fuel" means any person engaged in the
16 business of selling or delivering or transferring title of
17 motor fuel to another person other than for use or
18 consumption. No person shall act as a reseller of motor fuel
19 within this State without first being registered as a reseller
20 pursuant to Section 2c or a retailer pursuant to Section 2a.

21 "Selling price" or the "amount of sale" means the
22 consideration for a sale valued in money whether received in
23 money or otherwise, including cash, credits, property, other
24 than as hereinafter provided, and services, but, prior to
25 January 1, 2020, not including the value of or credit given for
26 traded-in tangible personal property where the item that is

1 traded-in is of like kind and character as that which is being
2 sold; beginning January 1, 2020, "selling price" includes the
3 portion of the value of or credit given for traded-in motor
4 vehicles of the First Division as defined in Section 1-146 of
5 the Illinois Vehicle Code of like kind and character as that
6 which is being sold that exceeds \$10,000. "Selling price"
7 shall be determined without any deduction on account of the
8 cost of the property sold, the cost of materials used, labor or
9 service cost or any other expense whatsoever, but does not
10 include charges that are added to prices by sellers on account
11 of the seller's tax liability under this Act, or on account of
12 the seller's duty to collect, from the purchaser, the tax that
13 is imposed by the Use Tax Act, or, except as otherwise provided
14 with respect to any cigarette tax imposed by a home rule unit,
15 on account of the seller's tax liability under any local
16 occupation tax administered by the Department, or, except as
17 otherwise provided with respect to any cigarette tax imposed
18 by a home rule unit on account of the seller's duty to collect,
19 from the purchasers, the tax that is imposed under any local
20 use tax administered by the Department. Effective December 1,
21 1985, "selling price" shall include charges that are added to
22 prices by sellers on account of the seller's tax liability
23 under the Cigarette Tax Act, on account of the sellers' duty to
24 collect, from the purchaser, the tax imposed under the
25 Cigarette Use Tax Act, and on account of the seller's duty to
26 collect, from the purchaser, any cigarette tax imposed by a

1 home rule unit.

2 Notwithstanding any law to the contrary, for any motor
3 vehicle, as defined in Section 1-146 of the Vehicle Code, that
4 is sold on or after January 1, 2015 for the purpose of leasing
5 the vehicle for a defined period that is longer than one year
6 and (1) is a motor vehicle of the second division that: (A) is
7 a self-contained motor vehicle designed or permanently
8 converted to provide living quarters for recreational,
9 camping, or travel use, with direct walk through access to the
10 living quarters from the driver's seat; (B) is of the van
11 configuration designed for the transportation of not less than
12 7 nor more than 16 passengers; or (C) has a gross vehicle
13 weight rating of 8,000 pounds or less or (2) is a motor vehicle
14 of the first division, "selling price" or "amount of sale"
15 means the consideration received by the lessor pursuant to the
16 lease contract, including amounts due at lease signing and all
17 monthly or other regular payments charged over the term of the
18 lease. Also included in the selling price is any amount
19 received by the lessor from the lessee for the leased vehicle
20 that is not calculated at the time the lease is executed,
21 including, but not limited to, excess mileage charges and
22 charges for excess wear and tear. For sales that occur in
23 Illinois, with respect to any amount received by the lessor
24 from the lessee for the leased vehicle that is not calculated
25 at the time the lease is executed, the lessor who purchased the
26 motor vehicle does not incur the tax imposed by the Use Tax Act

1 on those amounts, and the retailer who makes the retail sale of
2 the motor vehicle to the lessor is not required to collect the
3 tax imposed by the Use Tax Act or to pay the tax imposed by
4 this Act on those amounts. However, the lessor who purchased
5 the motor vehicle assumes the liability for reporting and
6 paying the tax on those amounts directly to the Department in
7 the same form (Illinois Retailers' Occupation Tax, and local
8 retailers' occupation taxes, if applicable) in which the
9 retailer would have reported and paid such tax if the retailer
10 had accounted for the tax to the Department. For amounts
11 received by the lessor from the lessee that are not calculated
12 at the time the lease is executed, the lessor must file the
13 return and pay the tax to the Department by the due date
14 otherwise required by this Act for returns other than
15 transaction returns. If the retailer is entitled under this
16 Act to a discount for collecting and remitting the tax imposed
17 under this Act to the Department with respect to the sale of
18 the motor vehicle to the lessor, then the right to the discount
19 provided in this Act shall be transferred to the lessor with
20 respect to the tax paid by the lessor for any amount received
21 by the lessor from the lessee for the leased vehicle that is
22 not calculated at the time the lease is executed; provided
23 that the discount is only allowed if the return is timely filed
24 and for amounts timely paid. The "selling price" of a motor
25 vehicle that is sold on or after January 1, 2015 for the
26 purpose of leasing for a defined period of longer than one year

1 shall not be reduced by the value of or credit given for
2 traded-in tangible personal property owned by the lessor, nor
3 shall it be reduced by the value of or credit given for
4 traded-in tangible personal property owned by the lessee,
5 regardless of whether the trade-in value thereof is assigned
6 by the lessee to the lessor. In the case of a motor vehicle
7 that is sold for the purpose of leasing for a defined period of
8 longer than one year, the sale occurs at the time of the
9 delivery of the vehicle, regardless of the due date of any
10 lease payments. A lessor who incurs a Retailers' Occupation
11 Tax liability on the sale of a motor vehicle coming off lease
12 may not take a credit against that liability for the Use Tax
13 the lessor paid upon the purchase of the motor vehicle (or for
14 any tax the lessor paid with respect to any amount received by
15 the lessor from the lessee for the leased vehicle that was not
16 calculated at the time the lease was executed) if the selling
17 price of the motor vehicle at the time of purchase was
18 calculated using the definition of "selling price" as defined
19 in this paragraph. Notwithstanding any other provision of this
20 Act to the contrary, lessors shall file all returns and make
21 all payments required under this paragraph to the Department
22 by electronic means in the manner and form as required by the
23 Department. This paragraph does not apply to leases of motor
24 vehicles for which, at the time the lease is entered into, the
25 term of the lease is not a defined period, including leases
26 with a defined initial period with the option to continue the

1 lease on a month-to-month or other basis beyond the initial
2 defined period.

3 The phrase "like kind and character" shall be liberally
4 construed (including but not limited to any form of motor
5 vehicle for any form of motor vehicle, or any kind of farm or
6 agricultural implement for any other kind of farm or
7 agricultural implement), while not including a kind of item
8 which, if sold at retail by that retailer, would be exempt from
9 retailers' occupation tax and use tax as an isolated or
10 occasional sale.

11 "Gross receipts" from the sales of tangible personal
12 property at retail means the total selling price or the amount
13 of such sales, as hereinbefore defined. In the case of charge
14 and time sales, the amount thereof shall be included only as
15 and when payments are received by the seller. Receipts or
16 other consideration derived by a seller from the sale,
17 transfer or assignment of accounts receivable to a wholly
18 owned subsidiary will not be deemed payments prior to the time
19 the purchaser makes payment on such accounts.

20 "Department" means the Department of Revenue.

21 "Person" means any natural individual, firm, partnership,
22 association, joint stock company, joint adventure, public or
23 private corporation, limited liability company, or a receiver,
24 executor, trustee, guardian or other representative appointed
25 by order of any court.

26 The isolated or occasional sale of tangible personal

1 property at retail by a person who does not hold himself out as
2 being engaged (or who does not habitually engage) in selling
3 such tangible personal property at retail, or a sale through a
4 bulk vending machine, does not constitute engaging in a
5 business of selling such tangible personal property at retail
6 within the meaning of this Act; provided that any person who is
7 engaged in a business which is not subject to the tax imposed
8 by this Act because of involving the sale of or a contract to
9 sell real estate or a construction contract to improve real
10 estate or a construction contract to engineer, install, and
11 maintain an integrated system of products, but who, in the
12 course of conducting such business, transfers tangible
13 personal property to users or consumers in the finished form
14 in which it was purchased, and which does not become real
15 estate or was not engineered and installed, under any
16 provision of a construction contract or real estate sale or
17 real estate sales agreement entered into with some other
18 person arising out of or because of such nontaxable business,
19 is engaged in the business of selling tangible personal
20 property at retail to the extent of the value of the tangible
21 personal property so transferred. If, in such a transaction, a
22 separate charge is made for the tangible personal property so
23 transferred, the value of such property, for the purpose of
24 this Act, shall be the amount so separately charged, but not
25 less than the cost of such property to the transferor; if no
26 separate charge is made, the value of such property, for the

1 purposes of this Act, is the cost to the transferor of such
2 tangible personal property. Construction contracts for the
3 improvement of real estate consisting of engineering,
4 installation, and maintenance of voice, data, video, security,
5 and all telecommunication systems do not constitute engaging
6 in a business of selling tangible personal property at retail
7 within the meaning of this Act if they are sold at one
8 specified contract price.

9 A person who holds himself or herself out as being engaged
10 (or who habitually engages) in selling tangible personal
11 property at retail is a person engaged in the business of
12 selling tangible personal property at retail hereunder with
13 respect to such sales (and not primarily in a service
14 occupation) notwithstanding the fact that such person designs
15 and produces such tangible personal property on special order
16 for the purchaser and in such a way as to render the property
17 of value only to such purchaser, if such tangible personal
18 property so produced on special order serves substantially the
19 same function as stock or standard items of tangible personal
20 property that are sold at retail.

21 Persons who engage in the business of transferring
22 tangible personal property upon the redemption of trading
23 stamps are engaged in the business of selling such property at
24 retail and shall be liable for and shall pay the tax imposed by
25 this Act on the basis of the retail value of the property
26 transferred upon redemption of such stamps.

1 "Bulk vending machine" means a vending machine, containing
2 unsorted confections, nuts, toys, or other items designed
3 primarily to be used or played with by children which, when a
4 coin or coins of a denomination not larger than \$0.50 are
5 inserted, are dispensed in equal portions, at random and
6 without selection by the customer.

7 "Remote retailer" means a retailer that does not maintain
8 within this State, directly or by a subsidiary, an office,
9 distribution house, sales house, warehouse or other place of
10 business, or any agent or other representative operating
11 within this State under the authority of the retailer or its
12 subsidiary, irrespective of whether such place of business or
13 agent is located here permanently or temporarily or whether
14 such retailer or subsidiary is licensed to do business in this
15 State.

16 "Marketplace" means a physical or electronic place, forum,
17 platform, application, or other method by which a marketplace
18 seller sells or offers to sell items.

19 "Marketplace facilitator" means a person who, pursuant to
20 an agreement with an unrelated third-party marketplace seller,
21 directly or indirectly through one or more affiliates
22 facilitates a retail sale by an unrelated third party
23 marketplace seller by:

24 (1) listing or advertising for sale by the marketplace
25 seller in a marketplace, tangible personal property that
26 is subject to tax under this Act; and

1 (2) either directly or indirectly, through agreements
2 or arrangements with third parties, collecting payment
3 from the customer and transmitting that payment to the
4 marketplace seller regardless of whether the marketplace
5 facilitator receives compensation or other consideration
6 in exchange for its services.

7 A person who provides advertising services, including
8 listing products for sale, is not considered a marketplace
9 facilitator, so long as the advertising service platform or
10 forum does not engage, directly or indirectly through one or
11 more affiliated persons, in the activities described in
12 paragraph (2) of this definition of "marketplace facilitator".

13 "Marketplace seller" means a person that makes sales
14 through a marketplace operated by an unrelated third party
15 marketplace facilitator.

16 For the purposes of Section 3-10, "manufactured home"
17 means a factory-assembled, completely integrated structure
18 designed for permanent habitation that:

19 (1) is designed to be used as a single-family dwelling
20 which complies with the standards established under Title
21 42 of the United States Code;

22 (2) is transportable in one or more sections;

23 (3) is installed according to the manufacturer's
24 instructions and connected to residential utilities for
25 year-round occupancy; and

26 (4) contains an area of at least 320 square feet.

1 (Source: P.A. 101-31, eff. 6-28-19; 101-604, eff. 1-1-20.)

2 (35 ILCS 120/2-10)

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

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

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

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

1 required sign through December 31, 2000 is guilty of a petty
2 offense for which the fine shall be \$500 per day per each
3 retail premises where a violation occurs.

4 With respect to gasohol, as defined in the Use Tax Act, the
5 tax imposed by this Act applies to (i) 70% of the proceeds of
6 sales made on or after January 1, 1990, and before July 1,
7 2003, (ii) 80% of the proceeds of sales made on or after July
8 1, 2003 and on or before July 1, 2017, and (iii) 100% of the
9 proceeds of sales made thereafter. If, at any time, however,
10 the tax under this Act on sales of gasohol, as defined in the
11 Use Tax Act, is imposed at the rate of 1.25%, then the tax
12 imposed by this Act applies to 100% of the proceeds of sales of
13 gasohol made during that time.

14 With respect to majority blended ethanol fuel, as defined
15 in the Use Tax Act, the tax imposed by this Act does not apply
16 to the proceeds of sales made on or after July 1, 2003 and on
17 or before December 31, 2023 but applies to 100% of the proceeds
18 of sales made thereafter.

19 With respect to biodiesel blends, as defined in the Use
20 Tax Act, with no less than 1% and no more than 10% biodiesel,
21 the tax imposed by this Act applies to (i) 80% of the proceeds
22 of sales made on or after July 1, 2003 and on or before
23 December 31, 2018 and (ii) 100% of the proceeds of sales made
24 thereafter. If, at any time, however, the tax under this Act on
25 sales of biodiesel blends, as defined in the Use Tax Act, with
26 no less than 1% and no more than 10% biodiesel is imposed at

1 the rate of 1.25%, then the tax imposed by this Act applies to
2 100% of the proceeds of sales of biodiesel blends with no less
3 than 1% and no more than 10% biodiesel made during that time.

4 With respect to 100% biodiesel, as defined in the Use Tax
5 Act, and biodiesel blends, as defined in the Use Tax Act, with
6 more than 10% but no more than 99% biodiesel, the tax imposed
7 by this Act does not apply to the proceeds of sales made on or
8 after July 1, 2003 and on or before December 31, 2023 but
9 applies to 100% of the proceeds of sales made thereafter.

10 On and after January 1, 2022, with respect to the sale of a
11 manufactured home, as defined in Section 1, where (i) the
12 purchase is the first purchase of the manufactured home for
13 use as a dwelling and (ii) the taxpayer certifies to the
14 Department that, within 30 days after the sale, the
15 manufactured home will be affixed to a permanent foundation in
16 the State so that the manufactured home is deemed to be real
17 property under the Conveyance and Encumbrance of Manufactured
18 Homes as Real Property and Severance Act, the tax imposed by
19 this Act applies to 50% of the proceeds of sales. The
20 Department may adopt rules to implement the incentive under
21 this paragraph, including rules to require the submission or
22 attachment of documentation of eligibility to receive the
23 incentive. This paragraph is exempt from the provisions of
24 Section 2-70.

25 With respect to food for human consumption that is to be
26 consumed off the premises where it is sold (other than

1 alcoholic beverages, food consisting of or infused with adult
2 use cannabis, soft drinks, and food that has been prepared for
3 immediate consumption) and prescription and nonprescription
4 medicines, drugs, medical appliances, products classified as
5 Class III medical devices by the United States Food and Drug
6 Administration that are used for cancer treatment pursuant to
7 a prescription, as well as any accessories and components
8 related to those devices, modifications to a motor vehicle for
9 the purpose of rendering it usable by a person with a
10 disability, and insulin, urine testing materials, syringes,
11 and needles used by diabetics, for human use, the tax is
12 imposed at the rate of 1%. For the purposes of this Section,
13 until September 1, 2009: the term "soft drinks" means any
14 complete, finished, ready-to-use, non-alcoholic drink, whether
15 carbonated or not, including but not limited to soda water,
16 cola, fruit juice, vegetable juice, carbonated water, and all
17 other preparations commonly known as soft drinks of whatever
18 kind or description that are contained in any closed or sealed
19 bottle, can, carton, or container, regardless of size; but
20 "soft drinks" does not include coffee, tea, non-carbonated
21 water, infant formula, milk or milk products as defined in the
22 Grade A Pasteurized Milk and Milk Products Act, or drinks
23 containing 50% or more natural fruit or vegetable juice.

24 Notwithstanding any other provisions of this Act,
25 beginning September 1, 2009, "soft drinks" means non-alcoholic
26 beverages that contain natural or artificial sweeteners. "Soft

1 drinks" do not include beverages that contain milk or milk
2 products, soy, rice or similar milk substitutes, or greater
3 than 50% of vegetable or fruit juice by volume.

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

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

25 Notwithstanding any other provisions of this Act,
26 beginning September 1, 2009, "nonprescription medicines and

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

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

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

16 Beginning on the effective date of this amendatory Act of
17 the 98th General Assembly, "prescription and nonprescription
18 medicines and drugs" includes medical cannabis purchased from
19 a registered dispensing organization under the Compassionate
20 Use of Medical Cannabis Program Act.

21 As used in this Section, "adult use cannabis" means
22 cannabis subject to tax under the Cannabis Cultivation
23 Privilege Tax Law and the Cannabis Purchaser Excise Tax Law
24 and does not include cannabis subject to tax under the
25 Compassionate Use of Medical Cannabis Program Act.

26 (Source: P.A. 100-22, eff. 7-6-17; 101-363, eff. 8-9-19;

1 101-593, eff. 12-4-19.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.".