



## 103RD GENERAL ASSEMBLY

### State of Illinois

### 2023 and 2024

### SB0271

Introduced 1/31/2023, by Sen. Craig Wilcox

#### 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, beginning 30 days after the effective date of the amendatory Act, the cents per gallon rate established by the Department of Revenue for the prepayment of tax by motor fuel retailers may not exceed \$0.18 per gallon for motor fuel and 80% of that amount for gasohol and biodiesel blends. Provides that the rate of tax imposed under the Acts for motor fuel, gasohol, majority blended ethanol fuel, and biodiesel and biodiesel blends may not exceed that prepayment amount set by the Department of Revenue. Effective immediately.

LRB103 25698 HLH 52047 b

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  
14 functionally used or consumed is a by-product or waste product  
15 that has been refined, manufactured, or produced from property  
16 purchased at retail, then the tax is imposed on the lower of  
17 the fair market value, if any, of the specific property so used  
18 in this State or on the selling price of the property purchased  
19 at retail. For purposes of this Section "fair market value"  
20 means the price at which property would change hands between a  
21 willing buyer and a willing seller, neither being under any  
22 compulsion to buy or sell and both having reasonable knowledge  
23 of the relevant facts. The fair market value shall be

1 established by Illinois sales by the taxpayer of the same  
2 property as that functionally used or consumed, or if there  
3 are no such sales by the taxpayer, then comparable sales or  
4 purchases of property of 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 30 days after the effective date of this  
10 amendatory Act of the 103rd General Assembly, the tax imposed  
11 under this Act on the following items may not exceed the cents  
12 per gallon rate established by the Department under subsection  
13 (e) of Section 2d of the Retailers' Occupation Tax Act: motor  
14 fuel, as defined in Section 1.1 of the Motor Fuel Tax Law;  
15 gasohol, as defined in Section 3-40 of this Act; majority  
16 blended ethanol fuel; and biodiesel and biodiesel blends. With  
17 respect to the tax imposed on biodiesel blends and gasohol,  
18 the maximum cents per gallon rate shall include the reduction  
19 allowed in subsection (e) of Section 2d of the Retailers'  
20 Occupation Tax Act.

21 Beginning on August 6, 2010 through August 15, 2010, and  
22 beginning again on August 5, 2022 through August 14, 2022,  
23 with respect to sales tax holiday items as defined in Section  
24 3-6 of this Act, the tax is imposed at the rate of 1.25%.

25 With respect to gasohol, the tax imposed by this Act  
26 applies to (i) 70% of the proceeds of sales made on or after

1 January 1, 1990, and before July 1, 2003, (ii) 80% of the  
2 proceeds of sales made on or after July 1, 2003 and on or  
3 before July 1, 2017, and (iii) 100% of the proceeds of sales  
4 made thereafter. If, at any time, however, the tax under this  
5 Act on sales of gasohol is imposed at the rate of 1.25%, then  
6 the tax imposed by this Act applies to 100% of the proceeds of  
7 sales of gasohol made during that time.

8 With respect to majority blended ethanol fuel, the tax  
9 imposed by this Act does not apply to the proceeds of sales  
10 made on or after July 1, 2003 and on or before December 31,  
11 2023 but applies to 100% of the proceeds of sales made  
12 thereafter.

13 With respect to biodiesel blends with no less than 1% and  
14 no more than 10% biodiesel, the tax imposed by this Act applies  
15 to (i) 80% of the proceeds of sales made on or after July 1,  
16 2003 and on or before December 31, 2018 and (ii) 100% of the  
17 proceeds of sales made after December 31, 2018 and before  
18 January 1, 2024. On and after January 1, 2024 and on or before  
19 December 31, 2030, the taxation of biodiesel, renewable  
20 diesel, and biodiesel blends shall be as provided in Section  
21 3-5.1. If, at any time, however, the tax under this Act on  
22 sales of biodiesel blends with no less than 1% and no more than  
23 10% biodiesel is imposed at the rate of 1.25%, then the tax  
24 imposed by this Act applies to 100% of the proceeds of sales of  
25 biodiesel blends with no less than 1% and no more than 10%  
26 biodiesel made during that time.

1 With respect to biodiesel and biodiesel blends with more  
2 than 10% but no more than 99% biodiesel, the tax imposed by  
3 this Act does not apply to the proceeds of sales made on or  
4 after July 1, 2003 and on or before December 31, 2023. On and  
5 after January 1, 2024 and on or before December 31, 2030, the  
6 taxation of biodiesel, renewable diesel, and biodiesel blends  
7 shall be as provided in Section 3-5.1.

8 Until July 1, 2022 and beginning again on July 1, 2023,  
9 with respect to food for human consumption that is to be  
10 consumed off the premises where it is sold (other than  
11 alcoholic beverages, food consisting of or infused with adult  
12 use cannabis, soft drinks, and food that has been prepared for  
13 immediate consumption), the tax is imposed at the rate of 1%.  
14 Beginning on July 1, 2022 and until July 1, 2023, with respect  
15 to food for human consumption that is to be consumed off the  
16 premises where it is sold (other than alcoholic beverages,  
17 food consisting of or infused with adult use cannabis, soft  
18 drinks, and food that has been prepared for immediate  
19 consumption), the tax is imposed at the rate of 0%.

20 With respect to prescription and nonprescription  
21 medicines, drugs, medical appliances, products classified as  
22 Class III medical devices by the United States Food and Drug  
23 Administration that are used for cancer treatment pursuant to  
24 a prescription, as well as any accessories and components  
25 related to those devices, modifications to a motor vehicle for  
26 the purpose of rendering it usable by a person with a

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

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

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

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

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

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

1 as required by 21 CFR ~~C.F.R.~~ § 201.66. The  
2 "over-the-counter-drug" label includes:

3 (A) a ~~A~~ "Drug Facts" panel; or

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

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

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

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

25 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;  
26 102-4, eff. 4-27-21; 102-700, Article 20, Section 20-5, eff.



1 4-19-22; 102-700, Article 60, Section 60-15, eff. 4-19-22;  
2 102-700, Article 65, Section 65-5, eff. 4-19-22; revised  
3 5-27-22.)

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

6 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

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 the selling price of tangible personal property transferred as  
10 an incident to the sale of service, but, for the purpose of  
11 computing this tax, in no event shall the selling price be less  
12 than the cost price of the property to the serviceman.

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

17 Beginning 30 days after the effective date of this  
18 amendatory Act of the 103rd General Assembly, the tax imposed  
19 under this Act on the following items may not exceed the cents  
20 per gallon rate established by the Department under subsection  
21 (e) of Section 2d of the Retailers' Occupation Tax Act: motor  
22 fuel, as defined in Section 1.1 of the Motor Fuel Tax Law;  
23 gasohol, as defined in Section 3-40 of the Use Tax Act;  
24 majority blended ethanol fuel; and biodiesel and biodiesel

1 blends. With respect to the tax imposed on biodiesel blends  
2 and gasohol, the maximum cents per gallon rate shall include  
3 the reduction allowed in subsection (e) of Section 2d of the  
4 Retailers' Occupation Tax Act.

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

16 With respect to majority blended ethanol fuel, as defined  
17 in the Use Tax Act, the tax imposed by this Act does not apply  
18 to the selling price of property transferred as an incident to  
19 the sale of service on or after July 1, 2003 and on or before  
20 December 31, 2023 but applies to 100% of the selling price  
21 thereafter.

22 With respect to biodiesel blends, as defined in the Use  
23 Tax Act, with no less than 1% and no more than 10% biodiesel,  
24 the tax imposed by this Act applies to (i) 80% of the selling  
25 price of property transferred as an incident to the sale of  
26 service on or after July 1, 2003 and on or before December 31,

1 2018 and (ii) 100% of the proceeds of the selling price after  
2 December 31, 2018 and before January 1, 2024. On and after  
3 January 1, 2024 and on or before December 31, 2030, the  
4 taxation of biodiesel, renewable diesel, and biodiesel blends  
5 shall be as provided in Section 3-5.1 of the Use Tax Act. If,  
6 at any time, however, the tax under this Act on sales of  
7 biodiesel blends, as defined in the Use Tax Act, with no less  
8 than 1% and no more than 10% biodiesel is imposed at the rate  
9 of 1.25%, then the tax imposed by this Act applies to 100% of  
10 the proceeds of sales of biodiesel blends with no less than 1%  
11 and no more than 10% biodiesel made during that time.

12 With respect to biodiesel, as defined in the Use Tax Act,  
13 and biodiesel blends, as defined in the Use Tax Act, with more  
14 than 10% but no more than 99% biodiesel, the tax imposed by  
15 this Act does not apply to the proceeds of the selling price of  
16 property transferred as an incident to the sale of service on  
17 or after July 1, 2003 and on or before December 31, 2023. On  
18 and after January 1, 2024 and on or before December 31, 2030,  
19 the taxation of biodiesel, renewable diesel, and biodiesel  
20 blends shall be as provided in Section 3-5.1 of the Use Tax  
21 Act.

22 At the election of any registered serviceman made for each  
23 fiscal year, sales of service in which the aggregate annual  
24 cost price of tangible personal property transferred as an  
25 incident to the sales of service is less than 35%, or 75% in  
26 the case of servicemen transferring prescription drugs or

1 servicemen engaged in graphic arts production, of the  
2 aggregate annual total gross receipts from all sales of  
3 service, the tax imposed by this Act shall be based on the  
4 serviceman's cost price of the tangible personal property  
5 transferred as an incident to the sale of those services.

6 Until July 1, 2022 and beginning again on July 1, 2023, the  
7 tax shall be imposed at the rate of 1% on food prepared for  
8 immediate consumption and transferred incident to a sale of  
9 service subject to this Act or the Service Occupation Tax Act  
10 by an entity licensed under the Hospital Licensing Act, the  
11 Nursing Home Care Act, the Assisted Living and Shared Housing  
12 Act, the ID/DD Community Care Act, the MC/DD Act, the  
13 Specialized Mental Health Rehabilitation Act of 2013, or the  
14 Child Care Act of 1969, or an entity that holds a permit issued  
15 pursuant to the Life Care Facilities Act. Until July 1, 2022  
16 and beginning again on July 1, 2023, the tax shall also be  
17 imposed at the rate of 1% on food for human consumption that is  
18 to be consumed off the premises where it is sold (other than  
19 alcoholic beverages, food consisting of or infused with adult  
20 use cannabis, soft drinks, and food that has been prepared for  
21 immediate consumption and is not otherwise included in this  
22 paragraph).

23 Beginning on July 1, 2022 and until July 1, 2023, the tax  
24 shall be imposed at the rate of 0% on food prepared for  
25 immediate consumption and transferred incident to a sale of  
26 service subject to this Act or the Service Occupation Tax Act

1 by an entity licensed under the Hospital Licensing Act, the  
2 Nursing Home Care Act, the Assisted Living and Shared Housing  
3 Act, the ID/DD Community Care Act, the MC/DD Act, the  
4 Specialized Mental Health Rehabilitation Act of 2013, or the  
5 Child Care Act of 1969, or an entity that holds a permit issued  
6 pursuant to the Life Care Facilities Act. Beginning on July 1,  
7 2022 and until July 1, 2023, the tax shall also be imposed at  
8 the rate of 0% on food for human consumption that is to be  
9 consumed off the premises where it is sold (other than  
10 alcoholic beverages, food consisting of or infused with adult  
11 use cannabis, soft drinks, and food that has been prepared for  
12 immediate consumption and is not otherwise included in this  
13 paragraph).

14 The tax shall also be imposed at the rate of 1% on  
15 prescription and nonprescription medicines, drugs, medical  
16 appliances, products classified as Class III medical devices  
17 by the United States Food and Drug Administration that are  
18 used for cancer treatment pursuant to a prescription, as well  
19 as any accessories and components related to those devices,  
20 modifications to a motor vehicle for the purpose of rendering  
21 it usable by a person with a disability, and insulin, blood  
22 sugar testing materials, syringes, and needles used by human  
23 diabetics. For the purposes of this Section, until September  
24 1, 2009: the term "soft drinks" means any complete, finished,  
25 ready-to-use, non-alcoholic drink, whether carbonated or not,  
26 including, but not limited to, soda water, cola, fruit juice,

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

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

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

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

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

23 (A) a ~~A~~ "Drug Facts" panel; or

24 (B) a ~~A~~ statement of the "active ingredient(s)" with a  
25 list of those ingredients contained in the compound,  
26 substance or preparation.

1           Beginning on January 1, 2014 (the effective date of Public  
2 Act 98-122), "prescription and nonprescription medicines and  
3 drugs" includes medical cannabis purchased from a registered  
4 dispensing organization under the Compassionate Use of Medical  
5 Cannabis Program Act.

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

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

18           (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;  
19 102-4, eff. 4-27-21; 102-16, eff. 6-17-21; 102-700, Article  
20 20, Section 20-10, eff. 4-19-22; 102-700, Article 60, Section  
21 60-20, eff. 4-19-22; revised 6-1-22.)

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

24           (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)



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

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

23           Beginning 30 days after the effective date of this  
24 amendatory Act of the 103rd General Assembly, the tax imposed  
25 under this Act on the following items may not exceed the cents  
26 per gallon rate established by the Department under subsection

1 (e) of Section 2d of the Retailers' Occupation Tax Act: motor  
2 fuel, as defined in Section 1.1 of the Motor Fuel Tax Law;  
3 gasohol, as defined in Section 3-40 of the Use Tax Act;  
4 majority blended ethanol fuel; and biodiesel and biodiesel  
5 blends. With respect to the tax imposed on biodiesel blends  
6 and gasohol, the maximum cents per gallon rate shall include  
7 the reduction allowed in subsection (e) of Section 2d of the  
8 Retailers' Occupation Tax Act.

9       With respect to gasohol, as defined in the Use Tax Act, the  
10 tax imposed by this Act shall apply to (i) 70% of the cost  
11 price of property transferred as an incident to the sale of  
12 service on or after January 1, 1990, and before July 1, 2003,  
13 (ii) 80% of the selling price of property transferred as an  
14 incident to the sale of service on or after July 1, 2003 and on  
15 or before July 1, 2017, and (iii) 100% of the cost price  
16 thereafter. If, at any time, however, the tax under this Act on  
17 sales of gasohol, as defined in the Use Tax Act, is imposed at  
18 the rate of 1.25%, then the tax imposed by this Act applies to  
19 100% of the proceeds of sales of gasohol made during that time.

20       With respect to majority blended ethanol fuel, as defined  
21 in the Use Tax Act, the tax imposed by this Act does not apply  
22 to the selling price of property transferred as an incident to  
23 the sale of service on or after July 1, 2003 and on or before  
24 December 31, 2023 but applies to 100% of the selling price  
25 thereafter.

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

1 Tax Act, with no less than 1% and no more than 10% biodiesel,  
2 the tax imposed by this Act applies to (i) 80% of the selling  
3 price of property transferred as an incident to the sale of  
4 service on or after July 1, 2003 and on or before December 31,  
5 2018 and (ii) 100% of the proceeds of the selling price after  
6 December 31, 2018 and before January 1, 2024. On and after  
7 January 1, 2024 and on or before December 31, 2030, the  
8 taxation of biodiesel, renewable diesel, and biodiesel blends  
9 shall be as provided in Section 3-5.1 of the Use Tax Act. If,  
10 at any time, however, the tax under this Act on sales of  
11 biodiesel blends, as defined in the Use Tax Act, with no less  
12 than 1% and no more than 10% biodiesel is imposed at the rate  
13 of 1.25%, then the tax imposed by this Act applies to 100% of  
14 the proceeds of sales of biodiesel blends with no less than 1%  
15 and no more than 10% biodiesel made during that time.

16 With respect to biodiesel, as defined in the Use Tax Act,  
17 and biodiesel blends, as defined in the Use Tax Act, with more  
18 than 10% but no more than 99% biodiesel material, the tax  
19 imposed by this Act does not apply to the proceeds of the  
20 selling price of property transferred as an incident to the  
21 sale of service on or after July 1, 2003 and on or before  
22 December 31, 2023. On and after January 1, 2024 and on or  
23 before December 31, 2030, the taxation of biodiesel, renewable  
24 diesel, and biodiesel blends shall be as provided in Section  
25 3-5.1 of the Use Tax Act.

26 At the election of any registered serviceman made for each

1 fiscal year, sales of service in which the aggregate annual  
2 cost price of tangible personal property transferred as an  
3 incident to the sales of service is less than 35%, or 75% in  
4 the case of servicemen transferring prescription drugs or  
5 servicemen engaged in graphic arts production, of the  
6 aggregate annual total gross receipts from all sales of  
7 service, the tax imposed by this Act shall be based on the  
8 serviceman's cost price of the tangible personal property  
9 transferred incident to the sale of those services.

10       Until July 1, 2022 and beginning again on July 1, 2023, the  
11 tax shall be imposed at the rate of 1% on food prepared for  
12 immediate consumption and transferred incident to a sale of  
13 service subject to this Act or the Service Use Tax Act by an  
14 entity licensed under the Hospital Licensing Act, the Nursing  
15 Home Care Act, the Assisted Living and Shared Housing Act, the  
16 ID/DD Community Care Act, the MC/DD Act, the Specialized  
17 Mental Health Rehabilitation Act of 2013, or the Child Care  
18 Act of 1969, or an entity that holds a permit issued pursuant  
19 to the Life Care Facilities Act. Until July 1, 2022 and  
20 beginning again on July 1, 2023, the tax shall also be imposed  
21 at the rate of 1% on food for human consumption that is to be  
22 consumed off the premises where it is sold (other than  
23 alcoholic beverages, food consisting of or infused with adult  
24 use cannabis, soft drinks, and food that has been prepared for  
25 immediate consumption and is not otherwise included in this  
26 paragraph).

1           Beginning on July 1, 2022 and until July 1, 2023, the tax  
2 shall be imposed at the rate of 0% on food prepared for  
3 immediate consumption and transferred incident to a sale of  
4 service subject to this Act or the Service Use Tax Act by an  
5 entity licensed under the Hospital Licensing Act, the Nursing  
6 Home Care Act, the Assisted Living and Shared Housing Act, the  
7 ID/DD Community Care Act, the MC/DD Act, the Specialized  
8 Mental Health Rehabilitation Act of 2013, or the Child Care  
9 Act of 1969, or an entity that holds a permit issued pursuant  
10 to the Life Care Facilities Act. Beginning July 1, 2022 and  
11 until July 1, 2023, the tax shall also be imposed at the rate  
12 of 0% on food for human consumption that is to be consumed off  
13 the premises where it is sold (other than alcoholic beverages,  
14 food consisting of or infused with adult use cannabis, soft  
15 drinks, and food that has been prepared for immediate  
16 consumption and is not otherwise included in this paragraph).

17           The tax shall also be imposed at the rate of 1% on  
18 prescription and nonprescription medicines, drugs, medical  
19 appliances, products classified as Class III medical devices  
20 by the United States Food and Drug Administration that are  
21 used for cancer treatment pursuant to a prescription, as well  
22 as any accessories and components related to those devices,  
23 modifications to a motor vehicle for the purpose of rendering  
24 it usable by a person with a disability, and insulin, blood  
25 sugar testing materials, syringes, and needles used by human  
26 diabetics. For the purposes of this Section, until September

1 1, 2009: the term "soft drinks" means any complete, finished,  
2 ready-to-use, non-alcoholic drink, whether carbonated or not,  
3 including, but not limited to, soda water, cola, fruit juice,  
4 vegetable juice, carbonated water, and all other preparations  
5 commonly known as soft drinks of whatever kind or description  
6 that are contained in any closed or sealed can, carton, or  
7 container, regardless of size; but "soft drinks" does not  
8 include coffee, tea, non-carbonated water, infant formula,  
9 milk or milk products as defined in the Grade A Pasteurized  
10 Milk and Milk Products Act, or drinks containing 50% or more  
11 natural fruit or vegetable 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" does ~~do~~ not include beverages that contain milk or  
16 milk products, soy, rice or similar milk substitutes, or  
17 greater 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  
10 other 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 CFR ~~C.F.R.~~ § 201.66. The  
25 "over-the-counter-drug" label includes:

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

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

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

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

14 (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;  
15 102-4, eff. 4-27-21; 102-16, eff. 6-17-21; 102-700, Article  
16 20, Section 20-15, eff. 4-19-22; 102-700, Article 60, Section  
17 60-25, eff. 4-19-22; revised 6-1-22.)

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

20 (35 ILCS 120/2-10)

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



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

5 Beginning 30 days after the effective date of this  
6 amendatory Act of the 103rd General Assembly, the tax imposed  
7 under this Act on the following items may not exceed the cents  
8 per gallon rate established by the Department under subsection  
9 (e) of Section 2d of this Act: motor fuel, as defined in  
10 Section 1.1 of the Motor Fuel Tax Law; gasohol, as defined in  
11 Section 3-40 of the Use Tax Act; majority blended ethanol  
12 fuel; and biodiesel and biodiesel blends. With respect to the  
13 tax imposed on biodiesel blends and gasohol, the maximum cents  
14 per gallon rate shall include the reduction allowed in  
15 subsection (e) of Section 2d.

16 Beginning on August 6, 2010 through August 15, 2010, and  
17 beginning again on August 5, 2022 through August 14, 2022,  
18 with respect to sales tax holiday items as defined in Section  
19 2-8 of this Act, the tax is imposed at the rate of 1.25%.

20 Within 14 days after July 1, 2000 (the effective date of  
21 Public Act 91-872) ~~this amendatory Act of the 91st General~~  
22 ~~Assembly~~, each retailer of motor fuel and gasohol shall cause  
23 the following notice to be posted in a prominently visible  
24 place on each retail dispensing device that is used to  
25 dispense motor fuel or gasohol in the State of Illinois: "As of  
26 July 1, 2000, the State of Illinois has eliminated the State's

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

10 With respect to gasohol, as defined in the Use Tax Act, the  
11 tax imposed by this Act applies to (i) 70% of the proceeds of  
12 sales made on or after January 1, 1990, and before July 1,  
13 2003, (ii) 80% of the proceeds of sales made on or after July  
14 1, 2003 and on or before July 1, 2017, and (iii) 100% of the  
15 proceeds of sales made thereafter. If, at any time, however,  
16 the tax under this Act on sales of gasohol, as defined in the  
17 Use Tax Act, is imposed at the rate of 1.25%, then the tax  
18 imposed by this Act applies to 100% of the proceeds of sales of  
19 gasohol made during that time.

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

25 With respect to biodiesel blends, as defined in the Use  
26 Tax Act, with no less than 1% and no more than 10% biodiesel,

1 the tax imposed by this Act applies to (i) 80% of the proceeds  
2 of sales made on or after July 1, 2003 and on or before  
3 December 31, 2018 and (ii) 100% of the proceeds of sales made  
4 after December 31, 2018 and before January 1, 2024. On and  
5 after January 1, 2024 and on or before December 31, 2030, the  
6 taxation of biodiesel, renewable diesel, and biodiesel blends  
7 shall be as provided in Section 3-5.1 of the Use Tax Act. If,  
8 at any time, however, the tax under this Act on sales of  
9 biodiesel blends, as defined in the Use Tax Act, with no less  
10 than 1% and no more than 10% biodiesel is imposed at the rate  
11 of 1.25%, then the tax imposed by this Act applies to 100% of  
12 the proceeds of sales of biodiesel blends with no less than 1%  
13 and no more than 10% biodiesel made during that time.

14 With respect to biodiesel, as defined in the Use Tax Act,  
15 and biodiesel blends, as defined in the Use Tax Act, with more  
16 than 10% but no more than 99% biodiesel, the tax imposed by  
17 this Act does not apply to the proceeds of sales made on or  
18 after July 1, 2003 and on or before December 31, 2023. On and  
19 after January 1, 2024 and on or before December 31, 2030, the  
20 taxation of biodiesel, renewable diesel, and biodiesel blends  
21 shall be as provided in Section 3-5.1 of the Use Tax Act.

22 Until July 1, 2022 and beginning again on July 1, 2023,  
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, food consisting of or infused with adult  
26 use cannabis, soft drinks, and food that has been prepared for

1 immediate consumption), the tax is imposed at the rate of 1%.  
2 Beginning July 1, 2022 and until July 1, 2023, with respect to  
3 food for human consumption that is to be consumed off the  
4 premises where it is sold (other than alcoholic beverages,  
5 food consisting of or infused with adult use cannabis, soft  
6 drinks, and food that has been prepared for immediate  
7 consumption), the tax is imposed at the rate of 0%.

8 With respect to prescription and nonprescription  
9 medicines, drugs, medical appliances, products classified as  
10 Class III medical devices by the United States Food and Drug  
11 Administration that are used for cancer treatment pursuant to  
12 a prescription, as well as any accessories and components  
13 related to those devices, modifications to a motor vehicle for  
14 the purpose of rendering it usable by a person with a  
15 disability, and insulin, blood sugar testing materials,  
16 syringes, and needles used by human diabetics, the tax is  
17 imposed at the rate of 1%. 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 bottle, can, carton, or container, regardless of size; but  
25 "soft drinks" does not include coffee, tea, non-carbonated  
26 water, infant formula, milk or milk products as defined in the

1 Grade A Pasteurized Milk and Milk Products Act, or drinks  
2 containing 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" does ~~do~~ not include beverages that contain milk or  
7 milk products, soy, rice or similar milk substitutes, or  
8 greater 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

1 other 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 CFR ~~C.F.R.~~ § 201.66. The  
16 "over-the-counter-drug" label includes:

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

18 (B) a ~~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) ~~this amendatory Act of the 98th General Assembly,~~  
23 "prescription and nonprescription medicines and drugs"  
24 includes medical cannabis purchased from a registered  
25 dispensing organization under the Compassionate Use of Medical  
26 Cannabis Program Act.

1           As used in this Section, "adult use cannabis" means  
2 cannabis subject to tax under the Cannabis Cultivation  
3 Privilege Tax Law and the Cannabis Purchaser Excise Tax Law  
4 and does not include cannabis subject to tax under the  
5 Compassionate Use of Medical Cannabis Program Act.

6           (Source: P.A. 101-363, eff. 8-9-19; 101-593, eff. 12-4-19;  
7 102-4, eff. 4-27-21; 102-700, Article 20, Section 20-20, eff.  
8 4-19-22; 102-700, Article 60, Section 60-30, eff. 4-19-22;  
9 102-700, Article 65, Section 65-10, eff. 4-19-22; revised  
10 6-1-22.)

11           (35 ILCS 120/2d) (from Ch. 120, par. 441d)

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

13           (a) Any person engaged in the business of selling motor  
14 fuel at retail, as defined in the Motor Fuel Tax Law, and who  
15 is not a licensed distributor or supplier, as defined in the  
16 Motor Fuel Tax Law, shall prepay to his or her distributor,  
17 supplier, or other reseller of motor fuel a portion of the tax  
18 imposed by this Act if the distributor, supplier, or other  
19 reseller of motor fuel is registered under Section 2a or  
20 Section 2c of this Act. The prepayment requirement provided  
21 for in this Section does not apply to liquid propane gas.

22           (b) Beginning on July 1, 2000 and through December 31,  
23 2000, the Retailers' Occupation Tax paid to the distributor,  
24 supplier, or other reseller shall be an amount equal to \$0.01  
25 per gallon of the motor fuel, except gasohol as defined in

1 Section 2-10 of this Act which shall be an amount equal to  
2 \$0.01 per gallon, purchased from the distributor, supplier, or  
3 other reseller.

4 (c) Before July 1, 2000 and then beginning on January 1,  
5 2001 and through June 30, 2003, the Retailers' Occupation Tax  
6 paid to the distributor, supplier, or other reseller shall be  
7 an amount equal to \$0.04 per gallon of the motor fuel, except  
8 gasohol as defined in Section 2-10 of this Act which shall be  
9 an amount equal to \$0.03 per gallon, purchased from the  
10 distributor, supplier, or other reseller.

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

18 (e) Beginning on January 1, 2011 and thereafter, the  
19 Retailers' Occupation Tax paid to the distributor, supplier,  
20 or other reseller shall be at the rate established by the  
21 Department under this subsection. The rate shall be  
22 established by the Department on January 1 and July 1 of each  
23 year using the average selling price, as defined in Section 1  
24 of this Act, per gallon of motor fuel sold in the State during  
25 the previous 6 months and multiplying that amount by 6.25% to  
26 determine the cents per gallon rate. Beginning 30 days after



1 the effective date of this amendatory Act of the 103rd General  
2 Assembly, the cents per gallon rate established by the  
3 Department for motor fuel under this subsection may not exceed  
4 \$0.18 per gallon. In the case of biodiesel blends, as defined  
5 in Section 3-42 of the Use Tax Act, with no less than 1% and no  
6 more than 10% biodiesel, and in the case of gasohol, as defined  
7 in Section 3-40 of the Use Tax Act, the rate shall be 80% of  
8 the rate established by the Department under this subsection  
9 for motor fuel. The Department shall provide persons subject  
10 to this Section notice of the rate established under this  
11 subsection at least 20 days prior to each January 1 and July 1.  
12 The Department shall provide persons subject to this Section  
13 notice of the rate change required by this amendatory Act of  
14 the 103rd General Assembly at least 20 days prior to the date  
15 on which that change takes effect. Publication of the  
16 established rate on the Department's internet website shall  
17 constitute sufficient notice under this Section. The  
18 Department may use data derived from independent surveys  
19 conducted or accumulated by third parties to determine the  
20 average selling price per gallon of motor fuel sold in the  
21 State.

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

26 (g) Every distributor, supplier, or other reseller

1 registered as provided in Section 2a or Section 2c of this Act  
2 shall remit the prepaid tax on all motor fuel that is due from  
3 any person engaged in the business of selling at retail motor  
4 fuel with the returns filed under Section 2f or Section 3 of  
5 this Act, but the vendors discount provided in Section 3 shall  
6 not apply to the amount of prepaid tax that is remitted. Any  
7 distributor or supplier who fails to properly collect and  
8 remit the tax shall be liable for the tax. For purposes of this  
9 Section, the prepaid tax is due on invoiced gallons sold  
10 during a month by the 20th day of the following month.

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

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