



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB3836

Introduced 10/19/2011, by Rep. Richard Morthland

#### SYNOPSIS AS INTRODUCED:

30 ILCS 105/6z-18	from Ch. 127, par. 142z-18
30 ILCS 105/6z-20	from Ch. 127, par. 142z-20
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	

Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Provides that the Department of Revenue shall monitor the rate of tax imposed on motor fuel and gasohol by the states of Iowa, Kentucky, and Missouri. Provides that, if the Department finds that the rate of tax imposed on the selling price of motor fuel or gasohol, or both, by the State of Iowa, the State of Kentucky, or the State of Missouri is less than 6.25%, then the Department shall, by rule, reduce the rate of tax imposed under the Acts on motor fuel and gasohol sold within 30 miles of a bridge or operating motor vehicle ferry that crosses the Illinois border with Iowa, Kentucky, or Missouri, as applicable, to 1.25% beginning on the first day of the first month to occur not less than 30 days after the date of the finding. Provides that, if the Department finds that the rate of tax imposed on the selling price of motor fuel or gasohol, or both, by the State of Iowa, the State of Kentucky, or the State of Missouri is 6.25% or higher, then the Department shall, by rule, increase the rate of tax imposed under the Acts on motor fuel and gasohol to 6.25%. Effective immediately.

LRB097 13627 HLH 58266 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The State Finance Act is amended by changing  
5 Sections 6z-18 and 6z-20 as follows:

6 (30 ILCS 105/6z-18) (from Ch. 127, par. 142z-18)

7 Sec. 6z-18. A portion of the money paid into the Local  
8 Government Tax Fund from sales of food for human consumption  
9 which is to be consumed off the premises where it is sold  
10 (other than alcoholic beverages, soft drinks and food which has  
11 been prepared for immediate consumption) and prescription and  
12 nonprescription medicines, drugs, medical appliances and  
13 insulin, urine testing materials, syringes and needles used by  
14 diabetics, which occurred in municipalities, shall be  
15 distributed to each municipality based upon the sales which  
16 occurred in that municipality. The remainder shall be  
17 distributed to each county based upon the sales which occurred  
18 in the unincorporated area of that county.

19 A portion of the money paid into the Local Government Tax  
20 Fund from the 6.25% general use tax rate on the selling price  
21 of tangible personal property which is purchased outside  
22 Illinois at retail from a retailer and which is titled or  
23 registered by any agency of this State's government shall be

1 distributed to municipalities as provided in this paragraph.  
2 Each municipality shall receive the amount attributable to  
3 sales for which Illinois addresses for titling or registration  
4 purposes are given as being in such municipality. The remainder  
5 of the money paid into the Local Government Tax Fund from such  
6 sales shall be distributed to counties. Each county shall  
7 receive the amount attributable to sales for which Illinois  
8 addresses for titling or registration purposes are given as  
9 being located in the unincorporated area of such county.

10 A portion of the money paid into the Local Government Tax  
11 Fund from the 6.25% general rate (and, beginning July 1, 2000  
12 and through December 31, 2000, and in any month in which the  
13 rate on motor fuel and gasohol is reduced to 1.25% pursuant to  
14 a rule adopted by the Department of Revenue, the 1.25% rate on  
15 motor fuel and gasohol, and beginning on August 6, 2010 through  
16 August 15, 2010, the 1.25% rate on sales tax holiday items) on  
17 sales subject to taxation under the Retailers' Occupation Tax  
18 Act and the Service Occupation Tax Act, which occurred in  
19 municipalities, shall be distributed to each municipality,  
20 based upon the sales which occurred in that municipality. The  
21 remainder shall be distributed to each county, based upon the  
22 sales which occurred in the unincorporated area of such county.

23 For the purpose of determining allocation to the local  
24 government unit, a retail sale by a producer of coal or other  
25 mineral mined in Illinois is a sale at retail at the place  
26 where the coal or other mineral mined in Illinois is extracted

1 from the earth. This paragraph does not apply to coal or other  
2 mineral when it is delivered or shipped by the seller to the  
3 purchaser at a point outside Illinois so that the sale is  
4 exempt under the United States Constitution as a sale in  
5 interstate or foreign commerce.

6 Whenever the Department determines that a refund of money  
7 paid into the Local Government Tax Fund should be made to a  
8 claimant instead of issuing a credit memorandum, the Department  
9 shall notify the State Comptroller, who shall cause the order  
10 to be drawn for the amount specified, and to the person named,  
11 in such notification from the Department. Such refund shall be  
12 paid by the State Treasurer out of the Local Government Tax  
13 Fund.

14 As soon as possible after the first day of each month,  
15 beginning January 1, 2011, upon certification of the Department  
16 of Revenue, the Comptroller shall order transferred, and the  
17 Treasurer shall transfer, to the STAR Bonds Revenue Fund the  
18 local sales tax increment, as defined in the Innovation  
19 Development and Economy Act, collected during the second  
20 preceding calendar month for sales within a STAR bond district  
21 and deposited into the Local Government Tax Fund, less 3% of  
22 that amount, which shall be transferred into the Tax Compliance  
23 and Administration Fund and shall be used by the Department,  
24 subject to appropriation, to cover the costs of the Department  
25 in administering the Innovation Development and Economy Act.

26 After the monthly transfer to the STAR Bonds Revenue Fund,

1 on or before the 25th day of each calendar month, the  
2 Department shall prepare and certify to the Comptroller the  
3 disbursement of stated sums of money to named municipalities  
4 and counties, the municipalities and counties to be those  
5 entitled to distribution of taxes or penalties paid to the  
6 Department during the second preceding calendar month. The  
7 amount to be paid to each municipality or county shall be the  
8 amount (not including credit memoranda) collected during the  
9 second preceding calendar month by the Department and paid into  
10 the Local Government Tax Fund, plus an amount the Department  
11 determines is necessary to offset any amounts which were  
12 erroneously paid to a different taxing body, and not including  
13 an amount equal to the amount of refunds made during the second  
14 preceding calendar month by the Department, and not including  
15 any amount which the Department determines is necessary to  
16 offset any amounts which are payable to a different taxing body  
17 but were erroneously paid to the municipality or county, and  
18 not including any amounts that are transferred to the STAR  
19 Bonds Revenue Fund. Within 10 days after receipt, by the  
20 Comptroller, of the disbursement certification to the  
21 municipalities and counties, provided for in this Section to be  
22 given to the Comptroller by the Department, the Comptroller  
23 shall cause the orders to be drawn for the respective amounts  
24 in accordance with the directions contained in such  
25 certification.

26 When certifying the amount of monthly disbursement to a

1 municipality or county under this Section, the Department shall  
2 increase or decrease that amount by an amount necessary to  
3 offset any misallocation of previous disbursements. The offset  
4 amount shall be the amount erroneously disbursed within the 6  
5 months preceding the time a misallocation is discovered.

6 The provisions directing the distributions from the  
7 special fund in the State Treasury provided for in this Section  
8 shall constitute an irrevocable and continuing appropriation  
9 of all amounts as provided herein. The State Treasurer and  
10 State Comptroller are hereby authorized to make distributions  
11 as provided in this Section.

12 In construing any development, redevelopment, annexation,  
13 preannexation or other lawful agreement in effect prior to  
14 September 1, 1990, which describes or refers to receipts from a  
15 county or municipal retailers' occupation tax, use tax or  
16 service occupation tax which now cannot be imposed, such  
17 description or reference shall be deemed to include the  
18 replacement revenue for such abolished taxes, distributed from  
19 the Local Government Tax Fund.

20 (Source: P.A. 96-939, eff. 6-24-10; 96-1012, eff. 7-7-10;  
21 97-333, eff. 8-12-11.)

22 (30 ILCS 105/6z-20) (from Ch. 127, par. 142z-20)

23 Sec. 6z-20. Of the money received from the 6.25% general  
24 rate (and, beginning July 1, 2000 and through December 31,  
25 2000, and in any month in which the rate on motor fuel and

1 gasohol is reduced to 1.25% pursuant to a rule adopted by the  
2 Department of Revenue, the 1.25% rate on motor fuel and  
3 gasohol, and beginning on August 6, 2010 through August 15,  
4 2010, the 1.25% rate on sales tax holiday items) on sales  
5 subject to taxation under the Retailers' Occupation Tax Act and  
6 Service Occupation Tax Act and paid into the County and Mass  
7 Transit District Fund, distribution to the Regional  
8 Transportation Authority tax fund, created pursuant to Section  
9 4.03 of the Regional Transportation Authority Act, for deposit  
10 therein shall be made based upon the retail sales occurring in  
11 a county having more than 3,000,000 inhabitants. The remainder  
12 shall be distributed to each county having 3,000,000 or fewer  
13 inhabitants based upon the retail sales occurring in each such  
14 county.

15 For the purpose of determining allocation to the local  
16 government unit, a retail sale by a producer of coal or other  
17 mineral mined in Illinois is a sale at retail at the place  
18 where the coal or other mineral mined in Illinois is extracted  
19 from the earth. This paragraph does not apply to coal or other  
20 mineral when it is delivered or shipped by the seller to the  
21 purchaser at a point outside Illinois so that the sale is  
22 exempt under the United States Constitution as a sale in  
23 interstate or foreign commerce.

24 Of the money received from the 6.25% general use tax rate  
25 on tangible personal property which is purchased outside  
26 Illinois at retail from a retailer and which is titled or

1 registered by any agency of this State's government and paid  
2 into the County and Mass Transit District Fund, the amount for  
3 which Illinois addresses for titling or registration purposes  
4 are given as being in each county having more than 3,000,000  
5 inhabitants shall be distributed into the Regional  
6 Transportation Authority tax fund, created pursuant to Section  
7 4.03 of the Regional Transportation Authority Act. The  
8 remainder of the money paid from such sales shall be  
9 distributed to each county based on sales for which Illinois  
10 addresses for titling or registration purposes are given as  
11 being located in the county. Any money paid into the Regional  
12 Transportation Authority Occupation and Use Tax Replacement  
13 Fund from the County and Mass Transit District Fund prior to  
14 January 14, 1991, which has not been paid to the Authority  
15 prior to that date, shall be transferred to the Regional  
16 Transportation Authority tax fund.

17 Whenever the Department determines that a refund of money  
18 paid into the County and Mass Transit District Fund should be  
19 made to a claimant instead of issuing a credit memorandum, the  
20 Department shall notify the State Comptroller, who shall cause  
21 the order to be drawn for the amount specified, and to the  
22 person named, in such notification from the Department. Such  
23 refund shall be paid by the State Treasurer out of the County  
24 and Mass Transit District Fund.

25 As soon as possible after the first day of each month,  
26 beginning January 1, 2011, upon certification of the Department



1 of Revenue, the Comptroller shall order transferred, and the  
2 Treasurer shall transfer, to the STAR Bonds Revenue Fund the  
3 local sales tax increment, as defined in the Innovation  
4 Development and Economy Act, collected during the second  
5 preceding calendar month for sales within a STAR bond district  
6 and deposited into the County and Mass Transit District Fund,  
7 less 3% of that amount, which shall be transferred into the Tax  
8 Compliance and Administration Fund and shall be used by the  
9 Department, subject to appropriation, to cover the costs of the  
10 Department in administering the Innovation Development and  
11 Economy Act.

12 After the monthly transfer to the STAR Bonds Revenue Fund,  
13 on or before the 25th day of each calendar month, the  
14 Department shall prepare and certify to the Comptroller the  
15 disbursement of stated sums of money to the Regional  
16 Transportation Authority and to named counties, the counties to  
17 be those entitled to distribution, as hereinabove provided, of  
18 taxes or penalties paid to the Department during the second  
19 preceding calendar month. The amount to be paid to the Regional  
20 Transportation Authority and each county having 3,000,000 or  
21 fewer inhabitants shall be the amount (not including credit  
22 memoranda) collected during the second preceding calendar  
23 month by the Department and paid into the County and Mass  
24 Transit District Fund, plus an amount the Department determines  
25 is necessary to offset any amounts which were erroneously paid  
26 to a different taxing body, and not including an amount equal

1 to the amount of refunds made during the second preceding  
2 calendar month by the Department, and not including any amount  
3 which the Department determines is necessary to offset any  
4 amounts which were payable to a different taxing body but were  
5 erroneously paid to the Regional Transportation Authority or  
6 county, and not including any amounts that are transferred to  
7 the STAR Bonds Revenue Fund. Within 10 days after receipt, by  
8 the Comptroller, of the disbursement certification to the  
9 Regional Transportation Authority and counties, provided for  
10 in this Section to be given to the Comptroller by the  
11 Department, the Comptroller shall cause the orders to be drawn  
12 for the respective amounts in accordance with the directions  
13 contained in such certification.

14 When certifying the amount of a monthly disbursement to the  
15 Regional Transportation Authority or to a county under this  
16 Section, the Department shall increase or decrease that amount  
17 by an amount necessary to offset any misallocation of previous  
18 disbursements. The offset amount shall be the amount  
19 erroneously disbursed within the 6 months preceding the time a  
20 misallocation is discovered.

21 The provisions directing the distributions from the  
22 special fund in the State Treasury provided for in this Section  
23 and from the Regional Transportation Authority tax fund created  
24 by Section 4.03 of the Regional Transportation Authority Act  
25 shall constitute an irrevocable and continuing appropriation  
26 of all amounts as provided herein. The State Treasurer and

1 State Comptroller are hereby authorized to make distributions  
2 as provided in this Section.

3 In construing any development, redevelopment, annexation,  
4 preannexation or other lawful agreement in effect prior to  
5 September 1, 1990, which describes or refers to receipts from a  
6 county or municipal retailers' occupation tax, use tax or  
7 service occupation tax which now cannot be imposed, such  
8 description or reference shall be deemed to include the  
9 replacement revenue for such abolished taxes, distributed from  
10 the County and Mass Transit District Fund or Local Government  
11 Distributive Fund, as the case may be.

12 (Source: P.A. 96-939, eff. 6-24-10; 96-1012, eff. 7-7-10;  
13 97-333, eff. 8-12-11.)

14 Section 10. The Use Tax Act is amended by changing Section  
15 3-10 as follows:

16 (35 ILCS 105/3-10)

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

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

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

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

21 With respect to gasohol, the tax imposed by this Act  
22 applies to (i) 70% of the proceeds of sales made on or after  
23 January 1, 1990, and before July 1, 2003, (ii) 80% of the  
24 proceeds of sales made on or after July 1, 2003 and on or  
25 before December 31, 2013, and (iii) 100% of the proceeds of  
26 sales made thereafter. If, at any time, however, the tax under

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

4 With respect to majority blended ethanol fuel, the tax  
5 imposed by this Act does not apply to the proceeds of sales  
6 made on or after July 1, 2003 and on or before December 31,  
7 2013 but applies to 100% of the proceeds of sales made  
8 thereafter.

9 With respect to biodiesel blends with no less than 1% and  
10 no more than 10% biodiesel, the tax imposed by this Act applies  
11 to (i) 80% of the proceeds of sales made on or after July 1,  
12 2003 and on or before December 31, 2013 and (ii) 100% of the  
13 proceeds of sales made thereafter. If, at any time, however,  
14 the tax under this Act on sales of biodiesel blends with no  
15 less than 1% and no more than 10% biodiesel is imposed at the  
16 rate of 1.25%, then the tax imposed by this Act applies to 100%  
17 of the proceeds of sales of biodiesel blends with no less than  
18 1% and no more than 10% biodiesel made during that time.

19 With respect to 100% biodiesel and biodiesel blends with  
20 more than 10% but no more than 99% biodiesel, the tax imposed  
21 by this Act does not apply to the proceeds of sales made on or  
22 after July 1, 2003 and on or before December 31, 2013 but  
23 applies to 100% of the proceeds of sales made thereafter.

24 Beginning on the effective date of this amendatory Act of  
25 the 97th General Assembly, the Department shall monitor the  
26 rate of tax imposed on the selling price of motor fuel, as

1 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,  
2 as defined in Section 3-40 of this Act, by the states of Iowa,  
3 Kentucky, and Missouri. If, in any month, the Department finds  
4 that the rate of tax imposed on the selling price of motor fuel  
5 or gasohol, or both, by the State of Iowa, the State of  
6 Kentucky, or the State of Missouri is less than 6.25%, then the  
7 Department shall, by rule, reduce the rate of tax imposed under  
8 this Act on motor fuel and gasohol sold within 30 miles of a  
9 bridge or operating motor vehicle ferry that crosses the  
10 Illinois border with Iowa, Kentucky, or Missouri, as  
11 applicable, to 1.25% beginning on the first day of the first  
12 month to occur not less than 30 days after the date of the  
13 finding. If the Department finds that the tax imposed on the  
14 selling price of motor fuel or gasohol, or both, by the State  
15 of Iowa, the State of Kentucky, or the State of Missouri is  
16 6.25% or higher, then the Department shall, by rule, increase  
17 the rate of tax imposed under this Act on motor fuel and  
18 gasohol sold within 30 miles of a bridge or operating motor  
19 vehicle ferry that crosses the Illinois border with that state  
20 to 6.25% beginning on the first day of the first month to occur  
21 not less than 30 days after the date of the finding.

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

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

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

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

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

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

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



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

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

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

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

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

18 Section 15. The Service Use Tax Act is amended by changing  
19 Section 3-10 as follows:

20 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

21 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
22 Section, the tax imposed by this Act is at the rate of 6.25% of  
23 the selling price of tangible personal property transferred as  
24 an incident to the sale of service, but, for the purpose of

1 computing this tax, in no event shall the selling price be less  
2 than the cost price of the property to the serviceman.

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

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

18 With respect to majority blended ethanol fuel, as defined  
19 in the Use Tax Act, the tax imposed by this Act does not apply  
20 to the selling price of property transferred as an incident to  
21 the sale of service on or after July 1, 2003 and on or before  
22 December 31, 2013 but applies to 100% of the selling price  
23 thereafter.

24 With respect to biodiesel blends, as defined in the Use Tax  
25 Act, with no less than 1% and no more than 10% biodiesel, the  
26 tax imposed by this Act applies to (i) 80% of the selling price

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

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

17 Beginning on the effective date of this amendatory Act of  
18 the 97th General Assembly, the Department shall monitor the  
19 rate of tax imposed on the selling price of motor fuel, as  
20 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,  
21 as defined in Section 3-40 of the Use Tax Act, by the states of  
22 Iowa, Kentucky, and Missouri. If, in any month, the Department  
23 finds that the rate of tax imposed on the selling price of  
24 motor fuel or gasohol, or both, by the State of Iowa, the State  
25 of Kentucky, or the State of Missouri is less than 6.25%, then  
26 the Department shall, by rule, reduce the rate of tax imposed

1 under this Act on motor fuel and gasohol sold within 30 miles  
2 of a bridge or operating motor vehicle ferry that crosses the  
3 Illinois border with Iowa, Kentucky, or Missouri, as  
4 applicable, to 1.25% beginning on the first day of the first  
5 month to occur not less than 30 days after the date of the  
6 finding. If the Department finds that the tax imposed on the  
7 selling price of motor fuel or gasohol, or both, by the State  
8 of Iowa, the State of Kentucky, or the State of Missouri is  
9 6.25% or higher, then the Department shall, by rule, increase  
10 the rate of tax imposed under this Act on motor fuel and  
11 gasohol sold within 30 miles of a bridge or operating motor  
12 vehicle ferry that crosses the Illinois border with that state  
13 to 6.25% beginning on the first day of the first month to occur  
14 not less than 30 days after the date of the finding.

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

25 The tax shall be imposed at the rate of 1% on food prepared  
26 for immediate consumption and transferred incident to a sale of

1 service subject to this Act or the Service Occupation Tax Act  
2 by an entity licensed under the Hospital Licensing Act, the  
3 Nursing Home Care Act, the ID/DD Community Care Act, the  
4 Specialized Mental Health Rehabilitation Act, or the Child Care  
5 Act of 1969. The tax shall also be imposed at the rate of 1% on  
6 food for human consumption that is to be consumed off the  
7 premises where it is sold (other than alcoholic beverages, soft  
8 drinks, and food that has been prepared for immediate  
9 consumption and is not otherwise included in this paragraph)  
10 and prescription and nonprescription medicines, drugs, medical  
11 appliances, modifications to a motor vehicle for the purpose of  
12 rendering it usable by a disabled person, and insulin, urine  
13 testing materials, syringes, and needles used by diabetics, for  
14 human use. For the purposes of this Section, until September 1,  
15 2009: the term "soft drinks" means any complete, finished,  
16 ready-to-use, non-alcoholic drink, whether carbonated or not,  
17 including but not limited to soda water, cola, fruit juice,  
18 vegetable juice, carbonated water, and all other preparations  
19 commonly known as soft drinks of whatever kind or description  
20 that are contained in any closed or sealed bottle, can, carton,  
21 or container, regardless of size; but "soft drinks" does not  
22 include coffee, tea, non-carbonated water, infant formula,  
23 milk or milk products as defined in the Grade A Pasteurized  
24 Milk and Milk Products Act, or drinks containing 50% or more  
25 natural fruit or vegetable juice.

26 Notwithstanding any other provisions of this Act,

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

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

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

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

- 14           (A) A "Drug Facts" panel; or  
15           (B) A statement of the "active ingredient(s)" with a  
16 list of those ingredients contained in the compound,  
17 substance or preparation.

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

25           (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,  
26 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10; 97-38,

1 eff. 6-28-11; 97-227, eff. 1-1-12; revised 9-12-11.)

2 Section 20. The Service Occupation Tax Act is amended by  
3 changing Section 3-10 as follows:

4 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

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

23 Beginning on July 1, 2000 and through December 31, 2000,  
24 with respect to motor fuel, as defined in Section 1.1 of the



1 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
2 the Use Tax Act, the tax is imposed at the rate of 1.25%.

3 With respect to gasohol, as defined in the Use Tax Act, the  
4 tax imposed by this Act shall apply to (i) 70% of the cost  
5 price of property transferred as an incident to the sale of  
6 service on or after January 1, 1990, and before July 1, 2003,  
7 (ii) 80% of the selling price of property transferred as an  
8 incident to the sale of service on or after July 1, 2003 and on  
9 or before December 31, 2013, and (iii) 100% of the cost price  
10 thereafter. If, at any time, however, the tax under this Act on  
11 sales of gasohol, as defined in the Use Tax Act, is imposed at  
12 the rate of 1.25%, then the tax imposed by this Act applies to  
13 100% of the proceeds of sales of 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 selling price of property transferred as an incident to  
17 the sale of service on or after July 1, 2003 and on or before  
18 December 31, 2013 but applies to 100% of the selling price  
19 thereafter.

20 With respect to biodiesel blends, as defined in the Use Tax  
21 Act, with no less than 1% and no more than 10% biodiesel, the  
22 tax imposed by this Act applies to (i) 80% of the selling price  
23 of property transferred as an incident to the sale of service  
24 on or after July 1, 2003 and on or before December 31, 2013 and  
25 (ii) 100% of the proceeds of the selling price thereafter. If,  
26 at any time, however, the tax under this Act on sales of

1 biodiesel blends, as defined in the Use Tax Act, with no less  
2 than 1% and no more than 10% biodiesel is imposed at the rate  
3 of 1.25%, then the tax imposed by this Act applies to 100% of  
4 the proceeds of sales of biodiesel blends with no less than 1%  
5 and no more than 10% biodiesel made during that time.

6 With respect to 100% biodiesel, as defined in the Use Tax  
7 Act, and biodiesel blends, as defined in the Use Tax Act, with  
8 more than 10% but no more than 99% biodiesel material, the tax  
9 imposed by this Act does not apply to the proceeds of the  
10 selling price of property transferred as an incident to the  
11 sale of service on or after July 1, 2003 and on or before  
12 December 31, 2013 but applies to 100% of the selling price  
13 thereafter.

14 Beginning on the effective date of this amendatory Act of  
15 the 97th General Assembly, the Department shall monitor the  
16 rate of tax imposed on the selling price of motor fuel, as  
17 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,  
18 as defined in Section 3-40 of the Use Tax Act, by the states of  
19 Iowa, Kentucky, and Missouri. If, in any month, the Department  
20 finds that the rate of tax imposed on the selling price of  
21 motor fuel or gasohol, or both, by the State of Iowa, the State  
22 of Kentucky, or the State of Missouri is less than 6.25%, then  
23 the Department shall, by rule, reduce the rate of tax imposed  
24 under this Act on motor fuel and gasohol sold within 30 miles  
25 of a bridge or operating motor vehicle ferry that crosses the  
26 Illinois border with Iowa, Kentucky, or Missouri, as

1 applicable, to 1.25% beginning on the first day of the first  
2 month to occur not less than 30 days after the date of the  
3 finding. If the Department finds that the tax imposed on the  
4 selling price of motor fuel or gasohol, or both, by the State  
5 of Iowa, the State of Kentucky, or the State of Missouri is  
6 6.25% or higher, then the Department shall, by rule, increase  
7 the rate of tax imposed under this Act on motor fuel and  
8 gasohol sold within 30 miles of a bridge or operating motor  
9 vehicle ferry that crosses the Illinois border with that state  
10 to 6.25% beginning on the first day of the first month to occur  
11 not less than 30 days after the date of the finding.

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

22 The tax shall be imposed at the rate of 1% on food prepared  
23 for immediate consumption and transferred incident to a sale of  
24 service subject to this Act or the Service Occupation Tax Act  
25 by an entity licensed under the Hospital Licensing Act, the  
26 Nursing Home Care Act, the ID/DD Community Care Act, the

1 Specialized Mental Health Rehabilitation Act, or the Child Care  
2 Act of 1969. The tax shall also be imposed at the rate of 1% on  
3 food for human consumption that is to be consumed off the  
4 premises where it is sold (other than alcoholic beverages, soft  
5 drinks, and food that has been prepared for immediate  
6 consumption and is not otherwise included in this paragraph)  
7 and prescription and nonprescription medicines, drugs, medical  
8 appliances, modifications to a motor vehicle for the purpose of  
9 rendering it usable by a disabled person, and insulin, urine  
10 testing materials, syringes, and needles used by diabetics, for  
11 human use. For the purposes of this Section, until September 1,  
12 2009: the term "soft drinks" means any complete, finished,  
13 ready-to-use, non-alcoholic drink, whether carbonated or not,  
14 including but not limited to soda water, cola, fruit juice,  
15 vegetable juice, carbonated water, and all other preparations  
16 commonly known as soft drinks of whatever kind or description  
17 that are contained in any closed or sealed can, carton, or  
18 container, regardless of size; but "soft drinks" does not  
19 include coffee, tea, non-carbonated water, infant formula,  
20 milk or milk products as defined in the Grade A Pasteurized  
21 Milk and Milk Products Act, or drinks containing 50% or more  
22 natural fruit or vegetable juice.

23 Notwithstanding any other provisions of this Act,  
24 beginning September 1, 2009, "soft drinks" means non-alcoholic  
25 beverages that contain natural or artificial sweeteners. "Soft  
26 drinks" do not include beverages that contain milk or milk

1 products, soy, rice or similar milk substitutes, or greater  
2 than 50% of vegetable or fruit juice by volume.

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

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

24       Notwithstanding any other provisions of this Act,  
25 beginning September 1, 2009, "nonprescription medicines and  
26 drugs" does not include grooming and hygiene products. For

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

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

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

15 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,  
16 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10; 97-38,  
17 eff. 6-28-11; 97-227, eff. 1-1-12; revised 9-12-11.)

18 Section 25. The Retailers' Occupation Tax Act is amended by  
19 changing Section 2-10 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 in  
24 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 on August 6, 2010 through August 15, 2010, with  
6 respect to sales tax holiday items as defined in Section 2-8 of  
7 this Act, the tax is imposed at the rate of 1.25%.

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

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

1 1, 2003 and on or before December 31, 2013, and (iii) 100% of  
2 the proceeds of sales made thereafter. If, at any time,  
3 however, the tax under this Act on sales of gasohol, as defined  
4 in the Use Tax Act, is imposed at the rate of 1.25%, then the  
5 tax imposed by this Act applies to 100% of the proceeds of  
6 sales of gasohol made during that time.

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

12 With respect to biodiesel blends, as defined in the Use Tax  
13 Act, with no less than 1% and no more than 10% biodiesel, the  
14 tax imposed by this Act applies to (i) 80% of the proceeds of  
15 sales made on or after July 1, 2003 and on or before December  
16 31, 2013 and (ii) 100% of the proceeds of sales made  
17 thereafter. If, at any time, however, the tax under this Act on  
18 sales of biodiesel blends, as defined in the Use Tax Act, with  
19 no less than 1% and no more than 10% biodiesel is imposed at  
20 the rate of 1.25%, then the tax imposed by this Act applies to  
21 100% of the proceeds of sales of biodiesel blends with no less  
22 than 1% and no more than 10% biodiesel made during that time.

23 With respect to 100% biodiesel, as defined in the Use Tax  
24 Act, and biodiesel blends, as defined in the Use Tax Act, with  
25 more than 10% but no more than 99% biodiesel, the tax imposed  
26 by this Act does not apply to the proceeds of sales made on or



1 after July 1, 2003 and on or before December 31, 2013 but  
2 applies to 100% of the proceeds of sales made thereafter.

3 Beginning on the effective date of this amendatory Act of  
4 the 97th General Assembly, the Department shall monitor the  
5 rate of tax imposed on the selling price of motor fuel, as  
6 defined in Section 1.1 of the Motor Fuel Tax Law, and gasohol,  
7 as defined in Section 3-40 of the Use Tax Act, by the states of  
8 Iowa, Kentucky, and Missouri. If, in any month, the Department  
9 finds that the rate of tax imposed on the selling price of  
10 motor fuel or gasohol, or both, by the State of Iowa, the State  
11 of Kentucky, or the State of Missouri is less than 6.25%, then  
12 the Department shall, by rule, reduce the rate of tax imposed  
13 under this Act on motor fuel and gasohol sold within 30 miles  
14 of a bridge or operating motor vehicle ferry that crosses the  
15 Illinois border with Iowa, Kentucky, or Missouri, as  
16 applicable, to 1.25% beginning on the first day of the first  
17 month to occur not less than 30 days after the date of the  
18 finding. If the Department finds that the tax imposed on the  
19 selling price of motor fuel or gasohol, or both, by the State  
20 of Iowa, the State of Kentucky, or the State of Missouri is  
21 6.25% or higher, then the Department shall, by rule, increase  
22 the rate of tax imposed under this Act on motor fuel and  
23 gasohol sold within 30 miles of a bridge or operating motor  
24 vehicle ferry that crosses the Illinois border with that state  
25 to 6.25% beginning on the first day of the first month to occur  
26 not less than 30 days after the date of the finding.

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

22           Notwithstanding any other provisions of this Act,  
23 beginning September 1, 2009, "soft drinks" means non-alcoholic  
24 beverages that contain natural or artificial sweeteners. "Soft  
25 drinks" do not include beverages that contain milk or milk  
26 products, soy, rice or similar milk substitutes, or greater

1 than 50% of vegetable or fruit juice by volume.

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

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

23       Notwithstanding any other provisions of this Act,  
24 beginning September 1, 2009, "nonprescription medicines and  
25 drugs" does not include grooming and hygiene products. For  
26 purposes of this Section, "grooming and hygiene products"

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

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

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

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

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law.