



## 97TH GENERAL ASSEMBLY

### State of Illinois

### 2011 and 2012

### HB5631

Introduced 2/15/2012, by Rep. Frank J. Mautino

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2505/2505-250	was 20 ILCS 2505/39c
35 ILCS 105/3-10	
35 ILCS 105/3-61	
35 ILCS 110/3-10	from Ch. 120, par. 439.33-10
35 ILCS 110/3-51	
35 ILCS 115/2d	
35 ILCS 115/3-10	from Ch. 120, par. 439.103-10
35 ILCS 120/2-10	
35 ILCS 120/2-51	
35 ILCS 120/5	from Ch. 120, par. 444
35 ILCS 130/18c	
415 ILCS 5/55.8	from Ch. 111 1/2, par. 1055.8

Amends the Department of Revenue Law of the Civil Administrative Code of Illinois. Makes a technical correction concerning a cross-reference. Amends the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, and the Retailers' Occupation Tax Act. Makes a technical correction concerning an effective date for a change in the definition of "food for human consumption that is to be consumed off the premises where it is sold. Provides that, in the case of a return that is not filed at the required time, a notice of tax liability may be issued on and after each July 1, and January 1 for returns filed more than 3 years prior to that July 1 or January 1. Amends the Cigarette Tax Act. Provides that the penalty for possession of less than 10 and not more than 100 original packages of contraband cigarettes is \$20 (instead of \$10) per package. Effective July 1, 2012.

LRB097 17992 HLH 63215 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 Department of Revenue Law of the Civil  
5 Administrative Code of Illinois is amended by changing Section  
6 2505-250 as follows:

7 (20 ILCS 2505/2505-250) (was 20 ILCS 2505/39c)

8 Sec. 2505-250. Compromising debts due to the State. Under  
9 no circumstances shall any officer or employee of the  
10 Department compromise any debt due to this State, except in  
11 case of actions of the Director after review by the board of  
12 appeals provided for by Section 2505-505 ~~95-505~~. However,  
13 claims or accounts receivable of less than \$1,000 may be  
14 written off the Department's records and cancelled by the  
15 Department without complying with the provisions of Section 2  
16 of the Uncollected State Claims Act when the Department  
17 determines that the cost of collecting the claim or account  
18 would exceed the amount to be collected. The Department shall  
19 submit to the Comptroller a list of all such claims or accounts  
20 written off the Department's records.

21 (Source: P.A. 91-239, eff. 1-1-00.)

22 Section 10. The Use Tax Act is amended by changing Sections

1 3-10 and 3-61 as follows:

2 (35 ILCS 105/3-10)

3 (Text of Section before amendment by P.A. 97-636)

4 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
5 Section, the tax imposed by this Act is at the rate of 6.25% of  
6 either the selling price or the fair market value, if any, of  
7 the tangible personal property. In all cases where property  
8 functionally used or consumed is the same as the property that  
9 was purchased at retail, then the tax is imposed on the selling  
10 price of the property. In all cases where property functionally  
11 used or consumed is a by-product or waste product that has been  
12 refined, manufactured, or produced from property purchased at  
13 retail, then the tax is imposed on the lower of the fair market  
14 value, if any, of the specific property so used in this State  
15 or on the selling price of the property purchased at retail.  
16 For purposes of this Section "fair market value" means the  
17 price at which property would change hands between a willing  
18 buyer and a willing seller, neither being under any compulsion  
19 to buy or sell and both having reasonable knowledge of the  
20 relevant facts. The fair market value shall be established by  
21 Illinois sales by the taxpayer of the same property as that  
22 functionally used or consumed, or if there are no such sales by  
23 the taxpayer, then comparable sales or purchases of property of  
24 like kind and character in Illinois.

25 Beginning on July 1, 2000 and through December 31, 2000,

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

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

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

16 With respect to majority blended ethanol fuel, the tax  
17 imposed by this Act does not apply to the proceeds of sales  
18 made on or after July 1, 2003 and on or before December 31,  
19 2013 but applies to 100% of the proceeds of sales made  
20 thereafter.

21 With respect to biodiesel blends with no less than 1% and  
22 no more than 10% biodiesel, the tax imposed by this Act applies  
23 to (i) 80% of the proceeds of sales made on or after July 1,  
24 2003 and on or before December 31, 2013 and (ii) 100% of the  
25 proceeds of sales made thereafter. If, at any time, however,  
26 the tax under this Act on sales of biodiesel blends with no

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

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

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

1 non-carbonated water, infant formula, milk or milk products as  
2 defined in the Grade A Pasteurized Milk and Milk Products Act,  
3 or drinks containing 50% or more natural fruit or vegetable  
4 juice.

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

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

23 Notwithstanding any other provisions of this Act,  
24 beginning September 1, 2009, "food for human consumption that  
25 is to be consumed off the premises where it is sold" does not  
26 include candy. For purposes of this Section, "candy" means a

1 preparation of sugar, honey, or other natural or artificial  
2 sweeteners in combination with chocolate, fruits, nuts or other  
3 ingredients or flavorings in the form of bars, drops, or  
4 pieces. "Candy" does not include any preparation that contains  
5 flour or requires refrigeration.

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

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

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

23 If the property that is purchased at retail from a retailer  
24 is acquired outside Illinois and used outside Illinois before  
25 being brought to Illinois for use here and is taxable under  
26 this Act, the "selling price" on which the tax is computed

1 shall be reduced by an amount that represents a reasonable  
2 allowance for depreciation for the period of prior out-of-state  
3 use.

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

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

7 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
8 Section, the tax imposed by this Act is at the rate of 6.25% of  
9 either the selling price or the fair market value, if any, of  
10 the tangible personal property. In all cases where property  
11 functionally used or consumed is the same as the property that  
12 was purchased at retail, then the tax is imposed on the selling  
13 price of the property. In all cases where property functionally  
14 used or consumed is a by-product or waste product that has been  
15 refined, manufactured, or produced from property purchased at  
16 retail, then the tax is imposed on the lower of the fair market  
17 value, if any, of the specific property so used in this State  
18 or on the selling price of the property purchased at retail.  
19 For purposes of this Section "fair market value" means the  
20 price at which property would change hands between a willing  
21 buyer and a willing seller, neither being under any compulsion  
22 to buy or sell and both having reasonable knowledge of the  
23 relevant facts. The fair market value shall be established by  
24 Illinois sales by the taxpayer of the same property as that  
25 functionally used or consumed, or if there are no such sales by



1 the taxpayer, then comparable sales or purchases of property of  
2 like kind and character in Illinois.

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

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

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

24 With respect to biodiesel blends with no less than 1% and  
25 no more than 10% biodiesel, the tax imposed by this Act applies  
26 to (i) 80% of the proceeds of sales made on or after July 1,

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

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

13 With respect to food for human consumption that is to be  
14 consumed off the premises where it is sold (other than  
15 alcoholic beverages, soft drinks, and food that has been  
16 prepared for immediate consumption) and prescription and  
17 nonprescription medicines, drugs, medical appliances,  
18 modifications to a motor vehicle for the purpose of rendering  
19 it usable by a disabled person, and insulin, urine testing  
20 materials, syringes, and needles used by diabetics, for human  
21 use, the tax is imposed at the rate of 1%. For the purposes of  
22 this Section, until September 1, 2009: the term "soft drinks"  
23 means any complete, finished, ready-to-use, non-alcoholic  
24 drink, whether carbonated or not, including but not limited to  
25 soda water, cola, fruit juice, vegetable juice, carbonated  
26 water, and all other preparations commonly known as soft drinks

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

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

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

26 Notwithstanding any other provisions of this Act,

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

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

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

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

26 If the property that is purchased at retail from a retailer

1 is acquired outside Illinois and used outside Illinois before  
2 being brought to Illinois for use here and is taxable under  
3 this Act, the "selling price" on which the tax is computed  
4 shall be reduced by an amount that represents a reasonable  
5 allowance for depreciation for the period of prior out-of-state  
6 use.

7 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,  
8 eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1012, eff. 7-7-10;  
9 97-636, eff. 6-1-12.)

10 (35 ILCS 105/3-61)

11 Sec. 3-61. Motor vehicles; trailers; use as rolling stock  
12 definition.

13 (a) Through June 30, 2003, "use as rolling stock moving in  
14 interstate commerce" in subsections (b) and (c) of Section 3-55  
15 means for motor vehicles, as defined in Section 1-146 of the  
16 Illinois Vehicle Code, and trailers, as defined in Section  
17 1-209 of the Illinois Vehicle Code, when on 15 or more  
18 occasions in a 12-month period the motor vehicle and trailer  
19 has carried persons or property for hire in interstate  
20 commerce, even just between points in Illinois, if the motor  
21 vehicle and trailer transports persons whose journeys or  
22 property whose shipments originate or terminate outside  
23 Illinois. This definition applies to all property purchased for  
24 the purpose of being attached to those motor vehicles or  
25 trailers as a part thereof.

1           (b) On and after July 1, 2003 and through June 30, 2004,  
2 "use as rolling stock moving in interstate commerce" in  
3 paragraphs (b) and (c) of Section 3-55 occurs for motor  
4 vehicles, as defined in Section 1-146 of the Illinois Vehicle  
5 Code, when during a 12-month period the rolling stock has  
6 carried persons or property for hire in interstate commerce for  
7 51% of its total trips and transports persons whose journeys or  
8 property whose shipments originate or terminate outside  
9 Illinois. Trips that are only between points in Illinois shall  
10 not be counted as interstate trips when calculating whether the  
11 tangible personal property qualifies for the exemption but such  
12 trips shall be included in total trips taken.

13           (c) Beginning July 1, 2004, "use as rolling stock moving in  
14 interstate commerce" in paragraphs (b) and (c) of Section 3-55  
15 occurs for motor vehicles, as defined in Section 1-146 of the  
16 Illinois Vehicle Code, when during a 12-month period the  
17 rolling stock has carried persons or property for hire in  
18 interstate commerce for greater than 50% of its total trips for  
19 that period or for greater than 50% of its total miles for that  
20 period. The person claiming the exemption shall make an  
21 election at the time of purchase to use either the trips or  
22 mileage method. Persons who purchased motor vehicles prior to  
23 July 1, 2004 shall make an election to use either the trips or  
24 mileage method and document that election in their books and  
25 records. If no election is made under this subsection to use  
26 the trips or mileage method, the person shall be deemed to have

1 chosen the mileage method. ~~Any election to use either the trips~~  
2 ~~or mileage method will remain in effect for that motor vehicle~~  
3 ~~for any period for which the Department may issue a notice of~~  
4 ~~tax liability under this Act.~~

5 For purposes of determining qualifying trips or miles,  
6 motor vehicles that carry persons or property for hire, even  
7 just between points in Illinois, will be considered used for  
8 hire in interstate commerce if the motor vehicle transports  
9 persons whose journeys or property whose shipments originate or  
10 terminate outside Illinois. The exemption for motor vehicles  
11 used as rolling stock moving in interstate commerce may be  
12 claimed only for the following vehicles: (i) motor vehicles  
13 whose gross vehicle weight rating exceeds 16,000 pounds; and  
14 (ii) limousines, as defined in Section 1-139.1 of the Illinois  
15 Vehicle Code. This definition applies to all property purchased  
16 for the purpose of being attached to those motor vehicles as a  
17 part thereof.

18 (d) Beginning July 1, 2004, "use as rolling stock moving in  
19 interstate commerce" in paragraphs (b) and (c) of Section 3-55  
20 occurs for trailers, as defined in Section 1-209 of the  
21 Illinois Vehicle Code, semitrailers as defined in Section 1-187  
22 of the Illinois Vehicle Code, and pole trailers as defined in  
23 Section 1-161 of the Illinois Vehicle Code, when during a  
24 12-month period the rolling stock has carried persons or  
25 property for hire in interstate commerce for greater than 50%  
26 of its total trips for that period or for greater than 50% of

1 its total miles for that period. The person claiming the  
2 exemption for a trailer or trailers that will not be dedicated  
3 to a motor vehicle or group of motor vehicles shall make an  
4 election at the time of purchase to use either the trips or  
5 mileage method. Persons who purchased trailers prior to July 1,  
6 2004 that are not dedicated to a motor vehicle or group of  
7 motor vehicles shall make an election to use either the trips  
8 or mileage method and document that election in their books and  
9 records. If no election is made under this subsection to use  
10 the trips or mileage method, the person shall be deemed to have  
11 chosen the mileage method. ~~Any election to use either the trips  
12 or mileage method will remain in effect for that trailer for  
13 any period for which the Department may issue a notice of tax  
14 liability under this Act.~~

15 For purposes of determining qualifying trips or miles,  
16 trailers, semitrailers, or pole trailers that carry property  
17 for hire, even just between points in Illinois, will be  
18 considered used for hire in interstate commerce if the  
19 trailers, semitrailers, or pole trailers transport property  
20 whose shipments originate or terminate outside Illinois. This  
21 definition applies to all property purchased for the purpose of  
22 being attached to those trailers, semitrailers, or pole  
23 trailers as a part thereof. In lieu of a person providing  
24 documentation regarding the qualifying use of each individual  
25 trailer, semitrailer, or pole trailer, that person may document  
26 such qualifying use by providing documentation of the



1 following:

2 (1) If a trailer, semitrailer, or pole trailer is  
3 dedicated to a motor vehicle that qualifies as rolling  
4 stock moving in interstate commerce under subsection (c) of  
5 this Section, then that trailer, semitrailer, or pole  
6 trailer qualifies as rolling stock moving in interstate  
7 commerce under this subsection.

8 (2) If a trailer, semitrailer, or pole trailer is  
9 dedicated to a group of motor vehicles that all qualify as  
10 rolling stock moving in interstate commerce under  
11 subsection (c) of this Section, then that trailer,  
12 semitrailer, or pole trailer qualifies as rolling stock  
13 moving in interstate commerce under this subsection.

14 (3) If one or more trailers, semitrailers, or pole  
15 trailers are dedicated to a group of motor vehicles and not  
16 all of those motor vehicles in that group qualify as  
17 rolling stock moving in interstate commerce under  
18 subsection (c) of this Section, then the percentage of  
19 those trailers, semitrailers, or pole trailers that  
20 qualifies as rolling stock moving in interstate commerce  
21 under this subsection is equal to the percentage of those  
22 motor vehicles in that group that qualify as rolling stock  
23 moving in interstate commerce under subsection (c) of this  
24 Section to which those trailers, semitrailers, or pole  
25 trailers are dedicated. However, to determine the  
26 qualification for the exemption provided under this item

1 (3), the mathematical application of the qualifying  
2 percentage to one or more trailers, semitrailers, or pole  
3 trailers under this subpart shall not be allowed as to any  
4 fraction of a trailer, semitrailer, or pole trailer.

5 (e) Beginning July 1, 2012, "use as rolling stock moving in  
6 interstate commerce" in paragraphs (b) and (c) of Section 3-55  
7 occurs for aircraft and watercraft when, during a 12-month  
8 period, the rolling stock has carried persons or property for  
9 hire in interstate commerce for greater than 50% of its total  
10 trips for that period or for greater than 50% of its total  
11 miles for that period. The person claiming the exemption shall  
12 make an election at the time of purchase to use either the  
13 trips or mileage method. Persons who purchased aircraft or  
14 watercraft prior to July 1, 2012 shall make an election to use  
15 either the trips or mileage method and document that election  
16 in their books and records. If no election is made under this  
17 subsection to use the trips or mileage method, the person shall  
18 be deemed to have chosen the mileage method. For aircraft,  
19 flight hours may be used in lieu of recording miles in  
20 determining whether the aircraft meets the mileage test in this  
21 subsection. For watercraft, nautical miles or trip hours may be  
22 used in lieu of recording miles in determining whether the  
23 watercraft meets the mileage test in this subsection.

24 (f) Any election to use either the trips or mileage method  
25 made under the provisions of subsections (c), (d), or (e) of  
26 this Section will remain in effect for the life of that item.

1 (Source: P.A. 95-528, eff. 8-28-07.)

2 Section 15. The Service Use Tax Act is amended by changing  
3 Sections 3-10 and 3-51 as follows:

4 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

5 (Text of Section before amendment by P.A. 97-636)

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

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

16 With respect to gasohol, as defined in the Use Tax Act, the  
17 tax imposed by this Act applies to (i) 70% of the selling price  
18 of property transferred as an incident to the sale of service  
19 on or after January 1, 1990, and before July 1, 2003, (ii) 80%  
20 of 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, and (iii) 100% of the selling price  
23 thereafter. If, at any time, however, the tax under this Act on  
24 sales of gasohol, as defined in the Use Tax Act, is imposed at

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

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

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

21 With respect to 100% biodiesel, as defined in the Use Tax  
22 Act, and biodiesel blends, as defined in the Use Tax Act, with  
23 more than 10% but no more than 99% biodiesel, the tax imposed  
24 by this Act does not apply to the proceeds of the selling price  
25 of property transferred as an incident to the sale of service  
26 on or after July 1, 2003 and on or before December 31, 2013 but

1 applies to 100% of the selling price thereafter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1           With respect to gasohol, as defined in the Use Tax Act, the  
2 tax imposed by this Act applies to (i) 70% of the selling price  
3 of property transferred as an incident to the sale of service  
4 on or after January 1, 1990, and before July 1, 2003, (ii) 80%  
5 of the selling price of property transferred as an incident to  
6 the sale of service on or after July 1, 2003 and on or before  
7 December 31, 2018, and (iii) 100% of the selling price  
8 thereafter. If, at any time, however, the tax under this Act on  
9 sales of gasohol, as defined in the Use Tax Act, is imposed at  
10 the rate of 1.25%, then the tax imposed by this Act applies to  
11 100% of the proceeds of sales of gasohol made during that time.

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

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

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

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

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

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

1 Act of 1969. The tax shall also be imposed at the rate of 1% on  
2 food for human consumption that is to be consumed off the  
3 premises where it is sold (other than alcoholic beverages, soft  
4 drinks, and food that has been prepared for immediate  
5 consumption and is not otherwise included in this paragraph)  
6 and prescription and nonprescription medicines, drugs, medical  
7 appliances, modifications to a motor vehicle for the purpose of  
8 rendering it usable by a disabled person, and insulin, urine  
9 testing materials, syringes, and needles used by diabetics, for  
10 human use. For the purposes of this Section, until September 1,  
11 2009: the term "soft drinks" means any complete, finished,  
12 ready-to-use, non-alcoholic drink, whether carbonated or not,  
13 including but not limited to soda water, cola, fruit juice,  
14 vegetable juice, carbonated water, and all other preparations  
15 commonly known as soft drinks of whatever kind or description  
16 that are contained in any closed or sealed bottle, can, carton,  
17 or container, regardless of size; but "soft drinks" does not  
18 include coffee, tea, non-carbonated water, infant formula,  
19 milk or milk products as defined in the Grade A Pasteurized  
20 Milk and Milk Products Act, or drinks containing 50% or more  
21 natural fruit or vegetable 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 September ~~August~~ 1, 2009, and notwithstanding any  
3 other provisions of this Act, "food for human consumption that  
4 is to be consumed off the premises where it is sold" includes  
5 all 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 September ~~August~~ 1, 2009, and notwithstanding any other  
9 provisions of this Act, "food for human consumption that is to  
10 be consumed off the premises where it is sold" includes all  
11 food sold through a vending machine, except soft drinks, candy,  
12 and food products that are dispensed hot from a vending  
13 machine, 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 If the property that is acquired from a serviceman is  
15 acquired outside Illinois and used outside Illinois before  
16 being brought to Illinois for use here and is taxable under  
17 this Act, the "selling price" on which the tax is computed  
18 shall be reduced by an amount that represents a reasonable  
19 allowance for depreciation for the period of prior out-of-state  
20 use.

21 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,  
22 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10; 97-38,  
23 eff. 6-28-11; 97-227, eff. 1-1-12; 97-636, eff. 6-1-12.)

24 (35 ILCS 110/3-51)

25 Sec. 3-51. Motor vehicles; trailers; use as rolling stock

1 definition.

2 (a) Through June 30, 2003, "use as rolling stock moving in  
3 interstate commerce" in subsection (b) of Section 3-45 means  
4 for motor vehicles, as defined in Section 1-46 of the Illinois  
5 Vehicle Code, and trailers, as defined in Section 1-209 of the  
6 Illinois Vehicle Code, when on 15 or more occasions in a  
7 12-month period the motor vehicle and trailer has carried  
8 persons or property for hire in interstate commerce, even just  
9 between points in Illinois, if the motor vehicle and trailer  
10 transports persons whose journeys or property whose shipments  
11 originate or terminate outside Illinois. This definition  
12 applies to all property purchased for the purpose of being  
13 attached to those motor vehicles or trailers as a part thereof.

14 (b) On and after July 1, 2003 and through June 30, 2004,  
15 "use as rolling stock moving in interstate commerce" in  
16 paragraphs (4) and (4a) of the definition of "sale of service"  
17 in Section 2 and subsection (b) of Section 3-45 occurs for  
18 motor vehicles, as defined in Section 1-146 of the Illinois  
19 Vehicle Code, when during a 12-month period the rolling stock  
20 has carried persons or property for hire in interstate commerce  
21 for 51% of its total trips and transports persons whose  
22 journeys or property whose shipments originate or terminate  
23 outside Illinois. Trips that are only between points in  
24 Illinois shall not be counted as interstate trips when  
25 calculating whether the tangible personal property qualifies  
26 for the exemption but such trips shall be included in total

1 trips taken.

2 (c) Beginning July 1, 2004, "use as rolling stock moving in  
3 interstate commerce" in paragraphs (4) and (4a) of the  
4 definition of "sale of service" in Section 2 and subsection (b)  
5 of Section 3-45 occurs for motor vehicles, as defined in  
6 Section 1-146 of the Illinois Vehicle Code, when during a  
7 12-month period the rolling stock has carried persons or  
8 property for hire in interstate commerce for greater than 50%  
9 of its total trips for that period or for greater than 50% of  
10 its total miles for that period. The person claiming the  
11 exemption shall make an election at the time of purchase to use  
12 either the trips or mileage method. Persons who purchased motor  
13 vehicles prior to July 1, 2004 shall make an election to use  
14 either the trips or mileage method and document that election  
15 in their books and records. If no election is made under this  
16 subsection to use the trips or mileage method, the person shall  
17 be deemed to have chosen the mileage method. ~~Any election to~~  
18 ~~use either the trips or mileage method will remain in effect~~  
19 ~~for that motor vehicle for any period for which the Department~~  
20 ~~may issue a notice of tax liability under this Act.~~

21 For purposes of determining qualifying trips or miles,  
22 motor vehicles that carry persons or property for hire, even  
23 just between points in Illinois, will be considered used for  
24 hire in interstate commerce if the motor vehicle transports  
25 persons whose journeys or property whose shipments originate or  
26 terminate outside Illinois. The exemption for motor vehicles

1 used as rolling stock moving in interstate commerce may be  
2 claimed only for the following vehicles: (i) motor vehicles  
3 whose gross vehicle weight rating exceeds 16,000 pounds; and  
4 (ii) limousines, as defined in Section 1-139.1 of the Illinois  
5 Vehicle Code. This definition applies to all property purchased  
6 for the purpose of being attached to those motor vehicles as a  
7 part thereof.

8 (d) Beginning July 1, 2004, "use as rolling stock moving in  
9 interstate commerce" in paragraphs (4) and (4a) of the  
10 definition of "sale of service" in Section 2 and subsection (b)  
11 of Section 3-45 occurs for trailers, as defined in Section  
12 1-209 of the Illinois Vehicle Code, semitrailers as defined in  
13 Section 1-187 of the Illinois Vehicle Code, and pole trailers  
14 as defined in Section 1-161 of the Illinois Vehicle Code, when  
15 during a 12-month period the rolling stock has carried persons  
16 or property for hire in interstate commerce for greater than  
17 50% of its total trips for that period or for greater than 50%  
18 of its total miles for that period. The person claiming the  
19 exemption for a trailer or trailers that will not be dedicated  
20 to a motor vehicle or group of motor vehicles shall make an  
21 election at the time of purchase to use either the trips or  
22 mileage method. Persons who purchased trailers prior to July 1,  
23 2004 that are not dedicated to a motor vehicle or group of  
24 motor vehicles shall make an election to use either the trips  
25 or mileage method and document that election in their books and  
26 records. If no election is made under this subsection to use



1 the trips or mileage method, the person shall be deemed to have  
2 chosen the mileage method. ~~Any election to use either the trips  
3 or mileage method will remain in effect for that trailer for  
4 any period for which the Department may issue a notice of tax  
5 liability under this Act.~~

6 For purposes of determining qualifying trips or miles,  
7 trailers, semitrailers, or pole trailers that carry property  
8 for hire, even just between points in Illinois, will be  
9 considered used for hire in interstate commerce if the  
10 trailers, semitrailers, or pole trailers transport property  
11 whose shipments originate or terminate outside Illinois. This  
12 definition applies to all property purchased for the purpose of  
13 being attached to those trailers, semitrailers, or pole  
14 trailers as a part thereof. In lieu of a person providing  
15 documentation regarding the qualifying use of each individual  
16 trailer, semitrailer, or pole trailer, that person may document  
17 such qualifying use by providing documentation of the  
18 following:

19 (1) If a trailer, semitrailer, or pole trailer is  
20 dedicated to a motor vehicle that qualifies as rolling  
21 stock moving in interstate commerce under subsection (c) of  
22 this Section, then that trailer, semitrailer, or pole  
23 trailer qualifies as rolling stock moving in interstate  
24 commerce under this subsection.

25 (2) If a trailer, semitrailer, or pole trailer is  
26 dedicated to a group of motor vehicles that all qualify as

1 rolling stock moving in interstate commerce under  
2 subsection (c) of this Section, then that trailer,  
3 semitrailer, or pole trailer qualifies as rolling stock  
4 moving in interstate commerce under this subsection.

5 (3) If one or more trailers, semitrailers, or pole  
6 trailers are dedicated to a group of motor vehicles and not  
7 all of those motor vehicles in that group qualify as  
8 rolling stock moving in interstate commerce under  
9 subsection (c) of this Section, then the percentage of  
10 those trailers, semitrailers, or pole trailers that  
11 qualifies as rolling stock moving in interstate commerce  
12 under this subsection is equal to the percentage of those  
13 motor vehicles in that group that qualify as rolling stock  
14 moving in interstate commerce under subsection (c) of this  
15 Section to which those trailers, semitrailers, or pole  
16 trailers are dedicated. However, to determine the  
17 qualification for the exemption provided under this item  
18 (3), the mathematical application of the qualifying  
19 percentage to one or more trailers, semitrailers, or pole  
20 trailers under this subpart shall not be allowed as to any  
21 fraction of a trailer, semitrailer, or pole trailer.

22 (e) Beginning July 1, 2012, "use as rolling stock moving in  
23 interstate commerce" in (i) paragraphs (4) and (4a) of the  
24 definition of "sale of service" in Section 2 and (ii)  
25 subsection (b) of Section 3-45 occurs for aircraft and  
26 watercraft when, during a 12-month period, the rolling stock

1 has carried persons or property for hire in interstate commerce  
2 for greater than 50% of its total trips for that period or for  
3 greater than 50% of its total miles for that period. The person  
4 claiming the exemption shall make an election at the time of  
5 purchase to use either the trips or mileage method. Persons who  
6 purchased aircraft or watercraft prior to July 1, 2012 shall  
7 make an election to use either the trips or mileage method and  
8 document that election in their books and records. If no  
9 election is made under this subsection to use the trips or  
10 mileage method, the person shall be deemed to have chosen the  
11 mileage method. For aircraft, flight hours may be used in lieu  
12 of recording miles in determining whether the aircraft meets  
13 the mileage test in this subsection. For watercraft, nautical  
14 miles or trip hours may be used in lieu of recording miles in  
15 determining whether the watercraft meets the mileage test in  
16 this subsection.

17 (f) Any election to use either the trips or mileage method  
18 made under the provisions of subsections (c), (d), or (e) of  
19 this Section will remain in effect for the life of that item.

20 (Source: P.A. 95-528, eff. 8-28-07.)

21 Section 20. The Service Occupation Tax Act is amended by  
22 changing Sections 2d and 3-10 as follows:

23 (35 ILCS 115/2d)

24 Sec. 2d. Motor vehicles; trailers; use as rolling stock

1 definition.

2 (a) Through June 30, 2003, "use as rolling stock moving in  
3 interstate commerce" in subsections (d) and (d-1) of the  
4 definition of "sale of service" in Section 2 means for motor  
5 vehicles, as defined in Section 1-146 of the Illinois Vehicle  
6 Code, and trailers, as defined in Section 1-209 of the Illinois  
7 Vehicle Code, when on 15 or more occasions in a 12-month period  
8 the motor vehicle and trailer has carried persons or property  
9 for hire in interstate commerce, even just between points in  
10 Illinois, if the motor vehicle and trailer transports persons  
11 whose journeys or property whose shipments originate or  
12 terminate outside Illinois. This definition applies to all  
13 property purchased for the purpose of being attached to those  
14 motor vehicles or trailers as a part thereof.

15 (b) On and after July 1, 2003 and through June 30, 2004,  
16 "use as rolling stock moving in interstate commerce" in  
17 paragraphs (d) and (d-1) of the definition of "sale of service"  
18 in Section 2 occurs for motor vehicles, as defined in Section  
19 1-146 of the Illinois Vehicle Code, when during a 12-month  
20 period the rolling stock has carried persons or property for  
21 hire in interstate commerce for 51% of its total trips and  
22 transports persons whose journeys or property whose shipments  
23 originate or terminate outside Illinois. Trips that are only  
24 between points in Illinois will not be counted as interstate  
25 trips when calculating whether the tangible personal property  
26 qualifies for the exemption but such trips will be included in

1 total trips taken.

2 (c) Beginning July 1, 2004, "use as rolling stock moving in  
3 interstate commerce" in paragraphs (d) and (d-1) of the  
4 definition of "sale of service" in Section 2 occurs for motor  
5 vehicles, as defined in Section 1-146 of the Illinois Vehicle  
6 Code, when during a 12-month period the rolling stock has  
7 carried persons or property for hire in interstate commerce for  
8 greater than 50% of its total trips for that period or for  
9 greater than 50% of its total miles for that period. The person  
10 claiming the exemption shall make an election at the time of  
11 purchase to use either the trips or mileage method. Persons who  
12 purchased motor vehicles prior to July 1, 2004 shall make an  
13 election to use either the trips or mileage method and document  
14 that election in their books and records. If no election is  
15 made under this subsection to use the trips or mileage method,  
16 the person shall be deemed to have chosen the mileage method.  
17 ~~Any election to use either the trips or mileage method will~~  
18 ~~remain in effect for that motor vehicle for any period for~~  
19 ~~which the Department may issue a notice of tax liability under~~  
20 ~~this Act.~~

21 For purposes of determining qualifying trips or miles,  
22 motor vehicles that carry persons or property for hire, even  
23 just between points in Illinois, will be considered used for  
24 hire in interstate commerce if the motor vehicle transports  
25 persons whose journeys or property whose shipments originate or  
26 terminate outside Illinois. The exemption for motor vehicles

1 used as rolling stock moving in interstate commerce may be  
2 claimed only for the following vehicles: (i) motor vehicles  
3 whose gross vehicle weight rating exceeds 16,000 pounds; and  
4 (ii) limousines, as defined in Section 1-139.1 of the Illinois  
5 Vehicle Code. This definition applies to all property purchased  
6 for the purpose of being attached to those motor vehicles as a  
7 part thereof.

8 (d) Beginning July 1, 2004, "use as rolling stock moving in  
9 interstate commerce" in paragraphs (d) and (d-1) of the  
10 definition of "sale of service" in Section 2 occurs for  
11 trailers, as defined in Section 1-209 of the Illinois Vehicle  
12 Code, semitrailers as defined in Section 1-187 of the Illinois  
13 Vehicle Code, and pole trailers as defined in Section 1-161 of  
14 the Illinois Vehicle Code, when during a 12-month period the  
15 rolling stock has carried persons or property for hire in  
16 interstate commerce for greater than 50% of its total trips for  
17 that period or for greater than 50% of its total miles for that  
18 period. The person claiming the exemption for a trailer or  
19 trailers that will not be dedicated to a motor vehicle or group  
20 of motor vehicles shall make an election at the time of  
21 purchase to use either the trips or mileage method. Persons who  
22 purchased trailers prior to July 1, 2004 that are not dedicated  
23 to a motor vehicle or group of motor vehicles shall make an  
24 election to use either the trips or mileage method and document  
25 that election in their books and records. If no election is  
26 made under this subsection to use the trips or mileage method,

1 the person shall be deemed to have chosen the mileage method.  
2 ~~Any election to use either the trips or mileage method will~~  
3 ~~remain in effect for that trailer for any period for which the~~  
4 ~~Department may issue a notice of tax liability under this Act.~~

5 For purposes of determining qualifying trips or miles,  
6 trailers, semitrailers, or pole trailers that carry property  
7 for hire, even just between points in Illinois, will be  
8 considered used for hire in interstate commerce if the  
9 trailers, semitrailers, or pole trailers transport property  
10 whose shipments originate or terminate outside Illinois. This  
11 definition applies to all property purchased for the purpose of  
12 being attached to those trailers, semitrailers, or pole  
13 trailers as a part thereof. In lieu of a person providing  
14 documentation regarding the qualifying use of each individual  
15 trailer, semitrailer, or pole trailer, that person may document  
16 such qualifying use by providing documentation of the  
17 following:

18 (1) If a trailer, semitrailer, or pole trailer is  
19 dedicated to a motor vehicle that qualifies as rolling  
20 stock moving in interstate commerce under subsection (c) of  
21 this Section, then that trailer, semitrailer, or pole  
22 trailer qualifies as rolling stock moving in interstate  
23 commerce under this subsection.

24 (2) If a trailer, semitrailer, or pole trailer is  
25 dedicated to a group of motor vehicles that all qualify as  
26 rolling stock moving in interstate commerce under

1 subsection (c) of this Section, then that trailer,  
2 semitrailer, or pole trailer qualifies as rolling stock  
3 moving in interstate commerce under this subsection.

4 (3) If one or more trailers, semitrailers, or pole  
5 trailers are dedicated to a group of motor vehicles and not  
6 all of those motor vehicles in that group qualify as  
7 rolling stock moving in interstate commerce under  
8 subsection (c) of this Section, then the percentage of  
9 those trailers, semitrailers, or pole trailers that  
10 qualifies as rolling stock moving in interstate commerce  
11 under this subsection is equal to the percentage of those  
12 motor vehicles in that group that qualify as rolling stock  
13 moving in interstate commerce under subsection (c) of this  
14 Section to which those trailers, semitrailers, or pole  
15 trailers are dedicated. However, to determine the  
16 qualification for the exemption provided under this item  
17 (3), the mathematical application of the qualifying  
18 percentage to one or more trailers, semitrailers, or pole  
19 trailers under this subpart shall not be allowed as to any  
20 fraction of a trailer, semitrailer, or pole trailer.

21 (e) Beginning July 1, 2012, "use as rolling stock moving in  
22 interstate commerce" in paragraphs (d) and (d-1) of the  
23 definition of "sale of service" in Section 2 occurs for  
24 aircraft and watercraft when, during a 12-month period, the  
25 rolling stock has carried persons or property for hire in  
26 interstate commerce for greater than 50% of its total trips for



1 that period or for greater than 50% of its total miles for that  
2 period. The person claiming the exemption shall make an  
3 election at the time of purchase to use either the trips or  
4 mileage method. Persons who purchased aircraft or watercraft  
5 prior to July 1, 2012 shall make an election to use either the  
6 trips or mileage method and document that election in their  
7 books and records. If no election is made under this subsection  
8 to use the trips or mileage method, the person shall be deemed  
9 to have chosen the mileage method. For aircraft, flight hours  
10 may be used in lieu of recording miles in determining whether  
11 the aircraft meets the mileage test in this subsection. For  
12 watercraft, nautical miles or trip hours may be used in lieu of  
13 recording miles in determining whether the watercraft meets the  
14 mileage test in this subsection.

15 (f) Any election to use either the trips or mileage method  
16 made under the provisions of subsections (c), (d), or (e) of  
17 this Section will remain in effect for the life of that item.

18 (Source: P.A. 95-528, eff. 8-28-07.)

19 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

20 (Text of Section before amendment by P.A. 97-636)

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", as defined in Section 2 of the Service Use  
24 Tax Act, of the tangible personal property. For the purpose of  
25 computing this tax, in no event shall the "selling price" be

1 less than the cost price to the serviceman of the tangible  
2 personal property transferred. The selling price of each item  
3 of tangible personal property transferred as an incident of a  
4 sale of service may be shown as a distinct and separate item on  
5 the serviceman's billing to the service customer. If the  
6 selling price is not so shown, the selling price of the  
7 tangible personal property is deemed to be 50% of the  
8 serviceman's entire billing to the service customer. When,  
9 however, a serviceman contracts to design, develop, and produce  
10 special order machinery or equipment, the tax imposed by this  
11 Act shall be based on the serviceman's cost price of the  
12 tangible personal property transferred incident to the  
13 completion of the contract.

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 With respect to gasohol, as defined in the Use Tax Act, the  
19 tax imposed by this Act shall apply to (i) 70% of the cost  
20 price of property transferred as an incident to the sale of  
21 service on or after January 1, 1990, and before July 1, 2003,  
22 (ii) 80% of the selling price of property transferred as an  
23 incident to the sale of service on or after July 1, 2003 and on  
24 or before December 31, 2013, and (iii) 100% of the cost price  
25 thereafter. If, at any time, however, the tax under this Act on  
26 sales of gasohol, as defined in the Use Tax Act, is imposed at

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

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

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

21 With respect to 100% biodiesel, as defined in the Use Tax  
22 Act, and biodiesel blends, as defined in the Use Tax Act, with  
23 more than 10% but no more than 99% biodiesel material, the tax  
24 imposed by this Act does not apply to the proceeds of the  
25 selling price of property transferred as an incident to the  
26 sale of service on or after July 1, 2003 and on or before

1 December 31, 2013 but applies to 100% of the selling price  
2 thereafter.

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

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

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

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

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

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

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

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

1 label includes:

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

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

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

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

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

1 tangible personal property transferred incident to the  
2 completion of the contract.

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 shall apply to (i) 70% of the cost  
9 price of property transferred as an incident to the sale of  
10 service on or after January 1, 1990, and before July 1, 2003,  
11 (ii) 80% of the selling price of property transferred as an  
12 incident to the sale of service on or after July 1, 2003 and on  
13 or before December 31, 2018, and (iii) 100% of the cost 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, 2018 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, 2018 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 material, the tax  
13 imposed by this Act does not apply to the proceeds of the  
14 selling price of property transferred as an incident to the  
15 sale of service on or after July 1, 2003 and on or before  
16 December 31, 2018 but applies to 100% of the selling price  
17 thereafter.

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

1 the sale of those services.

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

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

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

9 Until September ~~August~~ 1, 2009, and notwithstanding any  
10 other provisions of this Act, "food for human consumption that  
11 is to be consumed off the premises where it is sold" includes  
12 all 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 September ~~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, candy,  
19 and food products that are dispensed hot from a vending  
20 machine, regardless of the location of the vending machine.

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

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

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

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

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

21 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,  
22 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10; 97-38,  
23 eff. 6-28-11; 97-227, eff. 1-1-12; 97-636, eff. 6-1-12.)

24 Section 25. The Retailers' Occupation Tax Act is amended by  
25 changing Sections 2-10, 2-51, and 5 as follows:

1 (35 ILCS 120/2-10)

2 (Text of Section before amendment by P.A. 97-636)

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

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

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

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

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

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

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

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

4 With respect to 100% biodiesel, as defined in the Use Tax  
5 Act, and biodiesel blends, as defined in the Use Tax Act, with  
6 more than 10% but no more than 99% biodiesel, the tax imposed  
7 by this Act does not apply to the proceeds of sales made on or  
8 after July 1, 2003 and on or before December 31, 2013 but  
9 applies to 100% of the proceeds of sales made thereafter.

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

1 non-carbonated water, infant formula, milk or milk products as  
2 defined in the Grade A Pasteurized Milk and Milk Products Act,  
3 or drinks containing 50% or more natural fruit or vegetable  
4 juice.

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

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

23 Notwithstanding any other provisions of this Act,  
24 beginning September 1, 2009, "food for human consumption that  
25 is to be consumed off the premises where it is sold" does not  
26 include candy. For purposes of this Section, "candy" means a



1 preparation of sugar, honey, or other natural or artificial  
2 sweeteners in combination with chocolate, fruits, nuts or other  
3 ingredients or flavorings in the form of bars, drops, or  
4 pieces. "Candy" does not include any preparation that contains  
5 flour or requires refrigeration.

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

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

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

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

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

1           Sec. 2-10. 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 gross receipts from sales of tangible personal property made in  
4 the course of business.

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

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

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

1           With respect to gasohol, as defined in the Use Tax Act, the  
2 tax imposed by this Act applies to (i) 70% of the proceeds of  
3 sales made on or after January 1, 1990, and before July 1,  
4 2003, (ii) 80% of the proceeds of sales made on or after July  
5 1, 2003 and on or before December 31, 2018, and (iii) 100% of  
6 the proceeds of sales made thereafter. If, at any time,  
7 however, the tax under this Act on sales of gasohol, as defined  
8 in the Use Tax Act, is imposed at the rate of 1.25%, then the  
9 tax imposed by this Act applies to 100% of the proceeds of  
10 sales of gasohol made during that time.

11           With respect to majority blended ethanol fuel, as defined  
12 in the Use Tax Act, the tax imposed by this Act does not apply  
13 to the proceeds of sales made on or after July 1, 2003 and on or  
14 before December 31, 2018 but applies to 100% of the proceeds of  
15 sales made thereafter.

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

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

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

1 juice.

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

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

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

1 pieces. "Candy" does not include any preparation that contains  
2 flour or requires refrigeration.

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

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

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

20 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,  
21 eff. 7-13-09; 96-1000, eff. 7-2-10; 96-1012, eff. 7-7-10;  
22 97-636, eff. 6-1-12.)

23 (35 ILCS 120/2-51)

24 Sec. 2-51. Motor vehicles; trailers; use as rolling stock  
25 definition.

1 (a) Through June 30, 2003, "use as rolling stock moving in  
2 interstate commerce" in paragraphs (12) and (13) of Section 2-5  
3 means for motor vehicles, as defined in Section 1-146 of the  
4 Illinois Vehicle Code, and trailers, as defined in Section  
5 1-209 of the Illinois Vehicle Code, when on 15 or more  
6 occasions in a 12-month period the motor vehicle and trailer  
7 has carried persons or property for hire in interstate  
8 commerce, even just between points in Illinois, if the motor  
9 vehicle and trailer transports persons whose journeys or  
10 property whose shipments originate or terminate outside  
11 Illinois. This definition applies to all property purchased for  
12 the purpose of being attached to those motor vehicles or  
13 trailers as a part thereof.

14 (b) On and after July 1, 2003 and through June 30, 2004,  
15 "use as rolling stock moving in interstate commerce" in  
16 paragraphs (12) and (13) of Section 2-5 occurs for motor  
17 vehicles, as defined in Section 1-146 of the Illinois Vehicle  
18 Code, when during a 12-month period the rolling stock has  
19 carried persons or property for hire in interstate commerce for  
20 51% of its total trips and transports persons whose journeys or  
21 property whose shipments originate or terminate outside  
22 Illinois. Trips that are only between points in Illinois shall  
23 not be counted as interstate trips when calculating whether the  
24 tangible personal property qualifies for the exemption but such  
25 trips shall be included in total trips taken.

26 (c) Beginning July 1, 2004, "use as rolling stock moving in

1 interstate commerce" in paragraphs (12) and (13) of Section 2-5  
2 occurs for motor vehicles, as defined in Section 1-146 of the  
3 Illinois Vehicle Code, when during a 12-month period the  
4 rolling stock has carried persons or property for hire in  
5 interstate commerce for greater than 50% of its total trips for  
6 that period or for greater than 50% of its total miles for that  
7 period. The person claiming the exemption shall make an  
8 election at the time of purchase to use either the trips or  
9 mileage method. Persons who purchased motor vehicles prior to  
10 July 1, 2004 shall make an election to use either the trips or  
11 mileage method and document that election in their books and  
12 records. If no election is made under this subsection to use  
13 the trips or mileage method, the person shall be deemed to have  
14 chosen the mileage method. ~~Any election to use either the trips  
15 or mileage method will remain in effect for that motor vehicle  
16 for any period for which the Department may issue a notice of  
17 tax liability under this Act.~~

18 For purposes of determining qualifying trips or miles,  
19 motor vehicles that carry persons or property for hire, even  
20 just between points in Illinois, will be considered used for  
21 hire in interstate commerce if the motor vehicle transports  
22 persons whose journeys or property whose shipments originate or  
23 terminate outside Illinois. The exemption for motor vehicles  
24 used as rolling stock moving in interstate commerce may be  
25 claimed only for the following vehicles: (i) motor vehicles  
26 whose gross vehicle weight rating exceeds 16,000 pounds; and



1 (ii) limousines, as defined in Section 1-139.1 of the Illinois  
2 Vehicle Code. This definition applies to all property purchased  
3 for the purpose of being attached to those motor vehicles as a  
4 part thereof.

5 (d) Beginning July 1, 2004, "use as rolling stock moving in  
6 interstate commerce" in paragraphs (12) and (13) of Section 2-5  
7 occurs for trailers, as defined in Section 1-209 of the  
8 Illinois Vehicle Code, semitrailers as defined in Section 1-187  
9 of the Illinois Vehicle Code, and pole trailers as defined in  
10 Section 1-161 of the Illinois Vehicle Code, when during a  
11 12-month period the rolling stock has carried persons or  
12 property for hire in interstate commerce for greater than 50%  
13 of its total trips for that period or for greater than 50% of  
14 its total miles for that period. The person claiming the  
15 exemption for a trailer or trailers that will not be dedicated  
16 to a motor vehicle or group of motor vehicles shall make an  
17 election at the time of purchase to use either the trips or  
18 mileage method. Persons who purchased trailers prior to July 1,  
19 2004 that are not dedicated to a motor vehicle or group of  
20 motor vehicles shall make an election to use either the trips  
21 or mileage method and document that election in their books and  
22 records. If no election is made under this subsection to use  
23 the trips or mileage method, the person shall be deemed to have  
24 chosen the mileage method. ~~Any election to use either the trips  
25 or mileage method will remain in effect for that trailer for  
26 any period for which the Department may issue a notice of tax~~

1 ~~liability under this Act.~~

2 For purposes of determining qualifying trips or miles,  
3 trailers, semitrailers, or pole trailers that carry property  
4 for hire, even just between points in Illinois, will be  
5 considered used for hire in interstate commerce if the  
6 trailers, semitrailers, or pole trailers transport property  
7 whose shipments originate or terminate outside Illinois. This  
8 definition applies to all property purchased for the purpose of  
9 being attached to those trailers, semitrailers, or pole  
10 trailers as a part thereof. In lieu of a person providing  
11 documentation regarding the qualifying use of each individual  
12 trailer, semitrailer, or pole trailer, that person may document  
13 such qualifying use by providing documentation of the  
14 following:

15 (1) If a trailer, semitrailer, or pole trailer is  
16 dedicated to a motor vehicle that qualifies as rolling  
17 stock moving in interstate commerce under subsection (c) of  
18 this Section, then that trailer, semitrailer, or pole  
19 trailer qualifies as rolling stock moving in interstate  
20 commerce under this subsection.

21 (2) If a trailer, semitrailer, or pole trailer is  
22 dedicated to a group of motor vehicles that all qualify as  
23 rolling stock moving in interstate commerce under  
24 subsection (c) of this Section, then that trailer,  
25 semitrailer, or pole trailer qualifies as rolling stock  
26 moving in interstate commerce under this subsection.

1           (3) If one or more trailers, semitrailers, or pole  
2 trailers are dedicated to a group of motor vehicles and not  
3 all of those motor vehicles in that group qualify as  
4 rolling stock moving in interstate commerce under  
5 subsection (c) of this Section, then the percentage of  
6 those trailers, semitrailers, or pole trailers that  
7 qualifies as rolling stock moving in interstate commerce  
8 under this subsection is equal to the percentage of those  
9 motor vehicles in that group that qualify as rolling stock  
10 moving in interstate commerce under subsection (c) of this  
11 Section to which those trailers, semitrailers, or pole  
12 trailers are dedicated. However, to determine the  
13 qualification for the exemption provided under this item  
14 (3), the mathematical application of the qualifying  
15 percentage to one or more trailers, semitrailers, or pole  
16 trailers under this subpart shall not be allowed as to any  
17 fraction of a trailer, semitrailer, or pole trailer.

18           (e) Beginning July 1, 2012, "use as rolling stock moving in  
19 interstate commerce" in paragraphs (12) and (13) of Section 2-5  
20 occurs for aircraft and watercraft when, during a 12-month  
21 period, the rolling stock has carried persons or property for  
22 hire in interstate commerce for greater than 50% of its total  
23 trips for that period or for greater than 50% of its total  
24 miles for that period. The person claiming the exemption shall  
25 make an election at the time of purchase to use either the  
26 trips or mileage method. Persons who purchased aircraft or

1 watercraft prior to July 1, 2012 shall make an election to use  
2 either the trips or mileage method and document that election  
3 in their books and records. If no election is made under this  
4 subsection to use the trips or mileage method, the person shall  
5 be deemed to have chosen the mileage method. For aircraft,  
6 flight hours may be used in lieu of recording miles in  
7 determining whether the aircraft meets the mileage test in this  
8 subsection. For watercraft, nautical miles or trip hours may be  
9 used in lieu of recording miles in determining whether the  
10 watercraft meets the mileage test in this subsection.

11 (f) Any election to use either the trips or mileage method  
12 made under the provisions of subsections (c), (d), or (e) of  
13 this Section will remain in effect for the life of that item.

14 (Source: P.A. 95-528, eff. 8-28-07.)

15 (35 ILCS 120/5) (from Ch. 120, par. 444)

16 Sec. 5. In case any person engaged in the business of  
17 selling tangible personal property at retail fails to file a  
18 return when and as herein required, but thereafter, prior to  
19 the Department's issuance of a notice of tax liability under  
20 this Section, files a return and pays the tax, he shall also  
21 pay a penalty in an amount determined in accordance with  
22 Section 3-3 of the Uniform Penalty and Interest Act.

23 In case any person engaged in the business of selling  
24 tangible personal property at retail files the return at the  
25 time required by this Act but fails to pay the tax, or any part

1       thereof, when due, a penalty in an amount determined in  
2       accordance with Section 3-3 of the Uniform Penalty and Interest  
3       Act shall be added thereto.

4             In case any person engaged in the business of selling  
5       tangible personal property at retail fails to file a return  
6       when and as herein required, but thereafter, prior to the  
7       Department's issuance of a notice of tax liability under this  
8       Section, files a return but fails to pay the entire tax, a  
9       penalty in an amount determined in accordance with Section 3-3  
10      of the Uniform Penalty and Interest Act shall be added thereto.

11            In case any person engaged in the business of selling  
12      tangible personal property at retail fails to file a return,  
13      the Department shall determine the amount of tax due from him  
14      according to its best judgment and information, which amount so  
15      fixed by the Department shall be prima facie correct and shall  
16      be prima facie evidence of the correctness of the amount of tax  
17      due, as shown in such determination. In making any such  
18      determination of tax due, it shall be permissible for the  
19      Department to show a figure that represents the tax due for any  
20      given period of 6 months instead of showing the amount of tax  
21      due for each month separately. Proof of such determination by  
22      the Department may be made at any hearing before the Department  
23      or in any legal proceeding by a reproduced copy or computer  
24      print-out of the Department's record relating thereto in the  
25      name of the Department under the certificate of the Director of  
26      Revenue. If reproduced copies of the Department's records are

1 offered as proof of such determination, the Director must  
2 certify that those copies are true and exact copies of records  
3 on file with the Department. If computer print-outs of the  
4 Department's records are offered as proof of such  
5 determination, the Director must certify that those computer  
6 print-outs are true and exact representations of records  
7 properly entered into standard electronic computing equipment,  
8 in the regular course of the Department's business, at or  
9 reasonably near the time of the occurrence of the facts  
10 recorded, from trustworthy and reliable information. Such  
11 certified reproduced copy or certified computer print-out  
12 shall, without further proof, be admitted into evidence before  
13 the Department or in any legal proceeding and shall be prima  
14 facie proof of the correctness of the amount of tax due, as  
15 shown therein. The Department shall issue the taxpayer a notice  
16 of tax liability for the amount of tax claimed by the  
17 Department to be due, together with a penalty of 30% thereof.

18 However, where the failure to file any tax return required  
19 under this Act on the date prescribed therefor (including any  
20 extensions thereof), is shown to be unintentional and  
21 nonfraudulent and has not occurred in the 2 years immediately  
22 preceding the failure to file on the prescribed date or is due  
23 to other reasonable cause the penalties imposed by this Act  
24 shall not apply.

25 If such person or the legal representative of such person  
26 files, within 60 days after such notice, a protest to such

1 notice of tax liability and requests a hearing thereon, the  
2 Department shall give notice to such person or the legal  
3 representative of such person of the time and place fixed for  
4 such hearing, and shall hold a hearing in conformity with the  
5 provisions of this Act, and pursuant thereto shall issue a  
6 final assessment to such person or to the legal representative  
7 of such person for the amount found to be due as a result of  
8 such hearing.

9       If a protest to the notice of tax liability and a request  
10 for a hearing thereon is not filed within 60 days after such  
11 notice, such notice of tax liability shall become final without  
12 the necessity of a final assessment being issued and shall be  
13 deemed to be a final assessment.

14       After the issuance of a final assessment, or a notice of  
15 tax liability which becomes final without the necessity of  
16 actually issuing a final assessment as hereinbefore provided,  
17 the Department, at any time before such assessment is reduced  
18 to judgment, may (subject to rules of the Department) grant a  
19 rehearing (or grant departmental review and hold an original  
20 hearing if no previous hearing in the matter has been held)  
21 upon the application of the person aggrieved. Pursuant to such  
22 hearing or rehearing, the Department shall issue a revised  
23 final assessment to such person or his legal representative for  
24 the amount found to be due as a result of such hearing or  
25 rehearing.

26       Except in case of failure to file a return, or with the

1 consent of the person to whom the notice of tax liability is to  
2 be issued, no notice of tax liability shall be issued on and  
3 after each July 1 and January 1 covering gross receipts  
4 received during any month or period of time more than 3 years  
5 prior to such July 1 and January 1, respectively, except that  
6 if a return is not filed at the required time, no ~~a~~ notice of  
7 tax liability may be issued on and after each July 1 and  
8 January 1 for such return filed more than 3 years prior to such  
9 July 1 and January 1, respectively ~~not later than 3 years after~~  
10 ~~the time the return is filed~~. The foregoing limitations upon  
11 the issuance of a notice of tax liability shall not apply to  
12 the issuance of any such notice with respect to any period of  
13 time prior thereto in cases where the Department has, within  
14 the period of limitation then provided, notified a person of  
15 the amount of tax computed even though the Department had not  
16 determined the amount of tax due from such person in the manner  
17 required herein prior to the issuance of such notice, but in no  
18 case shall the amount of any such notice of tax liability for  
19 any period otherwise barred by this Act exceed for such period  
20 the amount shown in the notice theretofore issued.

21 If, when a tax or penalty under this Act becomes due and  
22 payable, the person alleged to be liable therefor is out of the  
23 State, the notice of tax liability may be issued within the  
24 times herein limited after his or her coming into or return to  
25 the State; and if, after the tax or penalty under this Act  
26 becomes due and payable, the person alleged to be liable



1 therefor departs from and remains out of the State, the time of  
2 his or her absence is no part of the time limited for the  
3 issuance of the notice of tax liability; but the foregoing  
4 provisions concerning absence from the State shall not apply to  
5 any case in which, at the time when a tax or penalty becomes  
6 due under this Act, the person allegedly liable therefor is not  
7 a resident of this State.

8 The time limitation period on the Department's right to  
9 issue a notice of tax liability shall not run during any period  
10 of time in which the order of any court has the effect of  
11 enjoining or restraining the Department from issuing the notice  
12 of tax liability.

13 In case of failure to pay the tax, or any portion thereof,  
14 or any penalty provided for in this Act, or interest, when due,  
15 the Department may bring suit to recover the amount of such  
16 tax, or portion thereof, or penalty or interest; or, if the  
17 taxpayer has died or become a person under legal disability,  
18 may file a claim therefor against his estate; provided that no  
19 such suit with respect to any tax, or portion thereof, or  
20 penalty, or interest shall be instituted more than 6 years  
21 after the date any proceedings in court for review thereof have  
22 terminated or the time for the taking thereof has expired  
23 without such proceedings being instituted, except with the  
24 consent of the person from whom such tax or penalty or interest  
25 is due; nor, except with such consent, shall such suit be  
26 instituted more than 6 years after the date any return is filed

1 with the Department in cases where the return constitutes the  
2 basis for the suit for unpaid tax, or portion thereof, or  
3 penalty provided for in this Act, or interest: Provided that  
4 the time limitation period on the Department's right to bring  
5 any such suit shall not run during any period of time in which  
6 the order of any court has the effect of enjoining or  
7 restraining the Department from bringing such suit.

8 After the expiration of the period within which the person  
9 assessed may file an action for judicial review under the  
10 Administrative Review Law without such an action being filed, a  
11 certified copy of the final assessment or revised final  
12 assessment of the Department may be filed with the Circuit  
13 Court of the county in which the taxpayer has his principal  
14 place of business, or of Sangamon County in those cases in  
15 which the taxpayer does not have his principal place of  
16 business in this State. The certified copy of the final  
17 assessment or revised final assessment shall be accompanied by  
18 a certification which recites facts that are sufficient to show  
19 that the Department complied with the jurisdictional  
20 requirements of the Act in arriving at its final assessment or  
21 its revised final assessment and that the taxpayer had his  
22 opportunity for an administrative hearing and for judicial  
23 review, whether he availed himself or herself of either or both  
24 of these opportunities or not. If the court is satisfied that  
25 the Department complied with the jurisdictional requirements  
26 of the Act in arriving at its final assessment or its revised

1 final assessment and that the taxpayer had his opportunity for  
2 an administrative hearing and for judicial review, whether he  
3 availed himself of either or both of these opportunities or  
4 not, the court shall render judgment in favor of the Department  
5 and against the taxpayer for the amount shown to be due by the  
6 final assessment or the revised final assessment, plus any  
7 interest which may be due, and such judgment shall be entered  
8 in the judgment docket of the court. Such judgment shall bear  
9 the rate of interest as set by the Uniform Penalty and Interest  
10 Act, but otherwise shall have the same effect as other  
11 judgments. The judgment may be enforced, and all laws  
12 applicable to sales for the enforcement of a judgment shall be  
13 applicable to sales made under such judgments. The Department  
14 shall file the certified copy of its assessment, as herein  
15 provided, with the Circuit Court within 6 years after such  
16 assessment becomes final except when the taxpayer consents in  
17 writing to an extension of such filing period, and except that  
18 the time limitation period on the Department's right to file  
19 the certified copy of its assessment with the Circuit Court  
20 shall not run during any period of time in which the order of  
21 any court has the effect of enjoining or restraining the  
22 Department from filing such certified copy of its assessment  
23 with the Circuit Court.

24 If, when the cause of action for a proceeding in court  
25 accrues against a person, he or she is out of the State, the  
26 action may be commenced within the times herein limited, after

1 his or her coming into or return to the State; and if, after  
2 the cause of action accrues, he or she departs from and remains  
3 out of the State, the time of his or her absence is no part of  
4 the time limited for the commencement of the action; but the  
5 foregoing provisions concerning absence from the State shall  
6 not apply to any case in which, at the time the cause of action  
7 accrues, the party against whom the cause of action accrues is  
8 not a resident of this State. The time within which a court  
9 action is to be commenced by the Department hereunder shall not  
10 run from the date the taxpayer files a petition in bankruptcy  
11 under the Federal Bankruptcy Act until 30 days after notice of  
12 termination or expiration of the automatic stay imposed by the  
13 Federal Bankruptcy Act.

14 No claim shall be filed against the estate of any deceased  
15 person or any person under legal disability for any tax or  
16 penalty or part of either, or interest, except in the manner  
17 prescribed and within the time limited by the Probate Act of  
18 1975, as amended.

19 The collection of tax or penalty or interest by any means  
20 provided for herein shall not be a bar to any prosecution under  
21 this Act.

22 In addition to any penalty provided for in this Act, any  
23 amount of tax which is not paid when due shall bear interest at  
24 the rate and in the manner specified in Sections 3-2 and 3-9 of  
25 the Uniform Penalty and Interest Act from the date when such  
26 tax becomes past due until such tax is paid or a judgment

1 therefor is obtained by the Department. If the time for making  
2 or completing an audit of a taxpayer's books and records is  
3 extended with the taxpayer's consent, at the request of and for  
4 the convenience of the Department, beyond the date on which the  
5 statute of limitations upon the issuance of a notice of tax  
6 liability by the Department otherwise would run, no interest  
7 shall accrue during the period of such extension or until a  
8 Notice of Tax Liability is issued, whichever occurs first.

9 In addition to any other remedy provided by this Act, and  
10 regardless of whether the Department is making or intends to  
11 make use of such other remedy, where a corporation or limited  
12 liability company registered under this Act violates the  
13 provisions of this Act or of any rule or regulation promulgated  
14 thereunder, the Department may give notice to the Attorney  
15 General of the identity of such a corporation or limited  
16 liability company and of the violations committed by such a  
17 corporation or limited liability company, for such action as is  
18 not already provided for by this Act and as the Attorney  
19 General may deem appropriate.

20 If the Department determines that an amount of tax or  
21 penalty or interest was incorrectly assessed, whether as the  
22 result of a mistake of fact or an error of law, the Department  
23 shall waive the amount of tax or penalty or interest that  
24 accrued due to the incorrect assessment.

25 (Source: P.A. 96-1383, eff. 1-1-11.)

1 Section 30. The Cigarette Tax Act is amended by changing  
2 Section 18c as follows:

3 (35 ILCS 130/18c)

4 Sec. 18c. Possession of not less than 10 and not more than  
5 100 original packages of contraband cigarettes; penalty. With  
6 the exception of licensed distributors and transporters, as  
7 defined in Section 9c of this Act, possessing unstamped  
8 original packages of cigarettes, and licensed distributors  
9 possessing original packages of cigarettes that bear a tax  
10 stamp of another state or taxing jurisdiction, anyone  
11 possessing not less than 10 and not more than 100 packages of  
12 contraband cigarettes contained in original packages is liable  
13 to pay to the Department, for deposit into the Tax Compliance  
14 and Administration Fund, a penalty of \$20 ~~\$10~~ for each such  
15 package of cigarettes, unless reasonable cause can be  
16 established by the person upon whom the penalty is imposed.  
17 Reasonable cause shall be determined in each situation in  
18 accordance with rules adopted by the Department. The provisions  
19 of the Uniform Penalty and Interest Act do not apply to this  
20 Section.

21 (Source: P.A. 96-782, eff. 1-1-10.)

22 Section 35. The Environmental Protection Act is amended by  
23 changing Section 55.8 as follows:

1 (415 ILCS 5/55.8) (from Ch. 111 1/2, par. 1055.8)

2 Sec. 55.8. Tire retailers.

3 (a) Any person selling new or used tires at retail or  
4 offering new or used tires for retail sale in this State shall:

5 (1) beginning on June 20, 2003 (the effective date of  
6 Public Act 93-32), collect from retail customers a fee of  
7 \$2 per new or used tire sold and delivered in this State,  
8 to be paid to the Department of Revenue and deposited into  
9 the Used Tire Management Fund, less a collection allowance  
10 of 10 cents per tire to be retained by the retail seller  
11 and a collection allowance of 10 cents per tire to be  
12 retained by the Department of Revenue and paid into the  
13 General Revenue Fund; the collection allowance for retail  
14 sellers, however, shall be allowed only if the return is  
15 filed timely and only for the amount that is paid timely in  
16 accordance with this Title XIV;

17 (1.5) beginning on July 1, 2003, collect from retail  
18 customers an additional 50 cents per new or used tire sold  
19 and delivered in this State; the money collected from this  
20 fee shall be deposited into the Emergency Public Health  
21 Fund;

22 (2) accept for recycling used tires from customers, at  
23 the point of transfer, in a quantity equal to the number of  
24 new tires purchased; and

25 (3) post in a conspicuous place a written notice at  
26 least 8.5 by 11 inches in size that includes the universal

1 recycling symbol and the following statements: "DO NOT put  
2 used tires in the trash."; "Recycle your used tires."; and  
3 "State law requires us to accept used tires for recycling,  
4 in exchange for new tires purchased."

5 (b) A person who accepts used tires for recycling under  
6 subsection (a) shall not allow the tires to accumulate for  
7 periods of more than 90 days.

8 (c) The requirements of subsection (a) of this Section do  
9 not apply to mail order sales nor shall the retail sale of a  
10 motor vehicle be considered to be the sale of tires at retail  
11 or offering of tires for retail sale. Instead of filing  
12 returns, retailers of tires may remit the tire user fee of  
13 \$1.00 per tire to their suppliers of tires if the supplier of  
14 tires is a registered retailer of tires and agrees or otherwise  
15 arranges to collect and remit the tire fee to the Department of  
16 Revenue, notwithstanding the fact that the sale of the tire is  
17 a sale for resale and not a sale at retail. A tire supplier who  
18 enters into such an arrangement with a tire retailer shall be  
19 liable for the tax on all tires sold to the tire retailer and  
20 must (i) provide the tire retailer with a receipt that  
21 separately reflects the tire tax collected from the retailer on  
22 each transaction and (ii) accept used tires for recycling from  
23 the retailer's customers. The tire supplier shall be entitled  
24 to the collection allowance of 10 cents per tire, but only if  
25 the return is filed timely and only for the amount that is paid  
26 timely in accordance with this Title XIV.



1           The retailer of the tires must maintain in its books and  
2 records evidence that the appropriate fee was paid to the tire  
3 supplier and that the tire supplier has agreed to remit the fee  
4 to the Department of Revenue for each tire sold by the  
5 retailer. Otherwise, the tire retailer shall be directly liable  
6 for the fee on all tires sold at retail. Tire retailers paying  
7 the fee to their suppliers are not entitled to the collection  
8 allowance of 10 cents per tire.

9           (d) The requirements of subsection (a) of this Section  
10 shall apply exclusively to tires to be used for vehicles  
11 defined in Section 1-217 of the Illinois Vehicle Code, aircraft  
12 tires, special mobile equipment, and implements of husbandry.

13           (e) The requirements of paragraph (1) of subsection (a) do  
14 not apply to the sale of reprocessed tires. For purposes of  
15 this Section, "reprocessed tire" means a used tire that has  
16 been recapped, retreaded, or regrooved and that has not been  
17 placed on a vehicle wheel rim.

18           (Source: P.A. 95-49, eff. 8-10-07; 95-331, eff. 8-21-07;  
19 95-876, eff. 8-21-08; 96-520, eff. 8-14-09.)

20           Section 95. No acceleration or delay. Where this Act makes  
21 changes in a statute that is represented in this Act by text  
22 that is not yet or no longer in effect (for example, a Section  
23 represented by multiple versions), the use of that text does  
24 not accelerate or delay the taking effect of (i) the changes  
25 made by this Act or (ii) provisions derived from any other

1 Public Act.

2 Section 99. Effective date. This Act takes effect July 1,  
3 2012.