



Sen. Antonio Muñoz

**Filed: 5/29/2018**

10000SB0514sam001

LRB100 05211 LNS 40968 a

1 AMENDMENT TO SENATE BILL 514

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 514 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. If and only if Senate Bill 2641 of the 100th  
5 General Assembly, as amended by House Amendment No. 3, becomes  
6 law, then the Use Tax Act is amended by changing Section 3-5 as  
7 follows:

8 (35 ILCS 105/3-5)

9 Sec. 3-5. Exemptions. Use of the following tangible  
10 personal property is exempt from the tax imposed by this Act:

11 (1) Personal property purchased from a corporation,  
12 society, association, foundation, institution, or  
13 organization, other than a limited liability company, that is  
14 organized and operated as a not-for-profit service enterprise  
15 for the benefit of persons 65 years of age or older if the  
16 personal property was not purchased by the enterprise for the

1 purpose of resale by the enterprise.

2 (2) Personal property purchased by a not-for-profit  
3 Illinois county fair association for use in conducting,  
4 operating, or promoting the county fair.

5 (3) Personal property purchased by a not-for-profit arts or  
6 cultural organization that establishes, by proof required by  
7 the Department by rule, that it has received an exemption under  
8 Section 501(c)(3) of the Internal Revenue Code and that is  
9 organized and operated primarily for the presentation or  
10 support of arts or cultural programming, activities, or  
11 services. These organizations include, but are not limited to,  
12 music and dramatic arts organizations such as symphony  
13 orchestras and theatrical groups, arts and cultural service  
14 organizations, local arts councils, visual arts organizations,  
15 and media arts organizations. On and after July 1, 2001 (the  
16 effective date of Public Act 92-35) ~~this amendatory Act of the~~  
17 ~~92nd General Assembly~~, however, an entity otherwise eligible  
18 for this exemption shall not make tax-free purchases unless it  
19 has an active identification number issued by the Department.

20 (4) Personal property purchased by a governmental body, by  
21 a corporation, society, association, foundation, or  
22 institution organized and operated exclusively for charitable,  
23 religious, or educational purposes, or by a not-for-profit  
24 corporation, society, association, foundation, institution, or  
25 organization that has no compensated officers or employees and  
26 that is organized and operated primarily for the recreation of

1 persons 55 years of age or older. A limited liability company  
2 may qualify for the exemption under this paragraph only if the  
3 limited liability company is organized and operated  
4 exclusively for educational purposes. On and after July 1,  
5 1987, however, no entity otherwise eligible for this exemption  
6 shall make tax-free purchases unless it has an active exemption  
7 identification number issued by the Department.

8 (5) Until July 1, 2003, a passenger car that is a  
9 replacement vehicle to the extent that the purchase price of  
10 the car is subject to the Replacement Vehicle Tax.

11 (6) Until July 1, 2003 and beginning again on September 1,  
12 2004 through August 30, 2014, graphic arts machinery and  
13 equipment, including repair and replacement parts, both new and  
14 used, and including that manufactured on special order,  
15 certified by the purchaser to be used primarily for graphic  
16 arts production, and including machinery and equipment  
17 purchased for lease. Equipment includes chemicals or chemicals  
18 acting as catalysts but only if the chemicals or chemicals  
19 acting as catalysts effect a direct and immediate change upon a  
20 graphic arts product. Beginning on July 1, 2017, graphic arts  
21 machinery and equipment is included in the manufacturing and  
22 assembling machinery and equipment exemption under paragraph  
23 (18).

24 (7) Farm chemicals.

25 (8) Legal tender, currency, medallions, or gold or silver  
26 coinage issued by the State of Illinois, the government of the

1 United States of America, or the government of any foreign  
2 country, and bullion.

3 (9) Personal property purchased from a teacher-sponsored  
4 student organization affiliated with an elementary or  
5 secondary school located in Illinois.

6 (10) A motor vehicle that is used for automobile renting,  
7 as defined in the Automobile Renting Occupation and Use Tax  
8 Act. This exemption does not include the purchase of a motor  
9 vehicle which will be used in a car facilitation transaction,  
10 as defined in Section 1-110.06 of the Illinois Vehicle Code.

11 (11) Farm machinery and equipment, both new and used,  
12 including that manufactured on special order, certified by the  
13 purchaser to be used primarily for production agriculture or  
14 State or federal agricultural programs, including individual  
15 replacement parts for the machinery and equipment, including  
16 machinery and equipment purchased for lease, and including  
17 implements of husbandry defined in Section 1-130 of the  
18 Illinois Vehicle Code, farm machinery and agricultural  
19 chemical and fertilizer spreaders, and nurse wagons required to  
20 be registered under Section 3-809 of the Illinois Vehicle Code,  
21 but excluding other motor vehicles required to be registered  
22 under the Illinois Vehicle Code. Horticultural polyhouses or  
23 hoop houses used for propagating, growing, or overwintering  
24 plants shall be considered farm machinery and equipment under  
25 this item (11). Agricultural chemical tender tanks and dry  
26 boxes shall include units sold separately from a motor vehicle

1 required to be licensed and units sold mounted on a motor  
2 vehicle required to be licensed if the selling price of the  
3 tender is separately stated.

4 Farm machinery and equipment shall include precision  
5 farming equipment that is installed or purchased to be  
6 installed on farm machinery and equipment including, but not  
7 limited to, tractors, harvesters, sprayers, planters, seeders,  
8 or spreaders. Precision farming equipment includes, but is not  
9 limited to, soil testing sensors, computers, monitors,  
10 software, global positioning and mapping systems, and other  
11 such equipment.

12 Farm machinery and equipment also includes computers,  
13 sensors, software, and related equipment used primarily in the  
14 computer-assisted operation of production agriculture  
15 facilities, equipment, and activities such as, but not limited  
16 to, the collection, monitoring, and correlation of animal and  
17 crop data for the purpose of formulating animal diets and  
18 agricultural chemicals. This item (11) is exempt from the  
19 provisions of Section 3-90.

20 (12) Until June 30, 2013, fuel and petroleum products sold  
21 to or used by an air common carrier, certified by the carrier  
22 to be used for consumption, shipment, or storage in the conduct  
23 of its business as an air common carrier, for a flight destined  
24 for or returning from a location or locations outside the  
25 United States without regard to previous or subsequent domestic  
26 stopovers.

1           Beginning July 1, 2013, fuel and petroleum products sold to  
2 or used by an air carrier, certified by the carrier to be used  
3 for consumption, shipment, or storage in the conduct of its  
4 business as an air common carrier, for a flight that (i) is  
5 engaged in foreign trade or is engaged in trade between the  
6 United States and any of its possessions and (ii) transports at  
7 least one individual or package for hire from the city of  
8 origination to the city of final destination on the same  
9 aircraft, without regard to a change in the flight number of  
10 that aircraft.

11           (13) Proceeds of mandatory service charges separately  
12 stated on customers' bills for the purchase and consumption of  
13 food and beverages purchased at retail from a retailer, to the  
14 extent that the proceeds of the service charge are in fact  
15 turned over as tips or as a substitute for tips to the  
16 employees who participate directly in preparing, serving,  
17 hosting or cleaning up the food or beverage function with  
18 respect to which the service charge is imposed.

19           (14) Until July 1, 2003, oil field exploration, drilling,  
20 and production equipment, including (i) rigs and parts of rigs,  
21 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
22 tubular goods, including casing and drill strings, (iii) pumps  
23 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
24 individual replacement part for oil field exploration,  
25 drilling, and production equipment, and (vi) machinery and  
26 equipment purchased for lease; but excluding motor vehicles

1 required to be registered under the Illinois Vehicle Code.

2 (15) Photoprocessing machinery and equipment, including  
3 repair and replacement parts, both new and used, including that  
4 manufactured on special order, certified by the purchaser to be  
5 used primarily for photoprocessing, and including  
6 photoprocessing machinery and equipment purchased for lease.

7 (16) Coal and aggregate exploration, mining, off-highway  
8 hauling, processing, maintenance, and reclamation equipment,  
9 including replacement parts and equipment, and including  
10 equipment purchased for lease, but excluding motor vehicles  
11 required to be registered under the Illinois Vehicle Code. The  
12 changes made to this Section by Public Act 97-767 apply on and  
13 after July 1, 2003, but no claim for credit or refund is  
14 allowed on or after August 16, 2013 (the effective date of  
15 Public Act 98-456) for such taxes paid during the period  
16 beginning July 1, 2003 and ending on August 16, 2013 (the  
17 effective date of Public Act 98-456).

18 (17) Until July 1, 2003, distillation machinery and  
19 equipment, sold as a unit or kit, assembled or installed by the  
20 retailer, certified by the user to be used only for the  
21 production of ethyl alcohol that will be used for consumption  
22 as motor fuel or as a component of motor fuel for the personal  
23 use of the user, and not subject to sale or resale.

24 (18) Manufacturing and assembling machinery and equipment  
25 used primarily in the process of manufacturing or assembling  
26 tangible personal property for wholesale or retail sale or

1 lease, whether that sale or lease is made directly by the  
2 manufacturer or by some other person, whether the materials  
3 used in the process are owned by the manufacturer or some other  
4 person, or whether that sale or lease is made apart from or as  
5 an incident to the seller's engaging in the service occupation  
6 of producing machines, tools, dies, jigs, patterns, gauges, or  
7 other similar items of no commercial value on special order for  
8 a particular purchaser. The exemption provided by this  
9 paragraph (18) does not include machinery and equipment used in  
10 (i) the generation of electricity for wholesale or retail sale;  
11 (ii) the generation or treatment of natural or artificial gas  
12 for wholesale or retail sale that is delivered to customers  
13 through pipes, pipelines, or mains; or (iii) the treatment of  
14 water for wholesale or retail sale that is delivered to  
15 customers through pipes, pipelines, or mains. The provisions of  
16 Public Act 98-583 are declaratory of existing law as to the  
17 meaning and scope of this exemption. Beginning on July 1, 2017,  
18 the exemption provided by this paragraph (18) includes, but is  
19 not limited to, graphic arts machinery and equipment, as  
20 defined in paragraph (6) of this Section.

21 (19) Personal property delivered to a purchaser or  
22 purchaser's donee inside Illinois when the purchase order for  
23 that personal property was received by a florist located  
24 outside Illinois who has a florist located inside Illinois  
25 deliver the personal property.

26 (20) Semen used for artificial insemination of livestock



1 for direct agricultural production.

2 (21) Horses, or interests in horses, registered with and  
3 meeting the requirements of any of the Arabian Horse Club  
4 Registry of America, Appaloosa Horse Club, American Quarter  
5 Horse Association, United States Trotting Association, or  
6 Jockey Club, as appropriate, used for purposes of breeding or  
7 racing for prizes. This item (21) is exempt from the provisions  
8 of Section 3-90, and the exemption provided for under this item  
9 (21) applies for all periods beginning May 30, 1995, but no  
10 claim for credit or refund is allowed on or after January 1,  
11 2008 for such taxes paid during the period beginning May 30,  
12 2000 and ending on January 1, 2008.

13 (22) Computers and communications equipment utilized for  
14 any hospital purpose and equipment used in the diagnosis,  
15 analysis, or treatment of hospital patients purchased by a  
16 lessor who leases the equipment, under a lease of one year or  
17 longer executed or in effect at the time the lessor would  
18 otherwise be subject to the tax imposed by this Act, to a  
19 hospital that has been issued an active tax exemption  
20 identification number by the Department under Section 1g of the  
21 Retailers' Occupation Tax Act. If the equipment is leased in a  
22 manner that does not qualify for this exemption or is used in  
23 any other non-exempt manner, the lessor shall be liable for the  
24 tax imposed under this Act or the Service Use Tax Act, as the  
25 case may be, based on the fair market value of the property at  
26 the time the non-qualifying use occurs. No lessor shall collect

1 or attempt to collect an amount (however designated) that  
2 purports to reimburse that lessor for the tax imposed by this  
3 Act or the Service Use Tax Act, as the case may be, if the tax  
4 has not been paid by the lessor. If a lessor improperly  
5 collects any such amount from the lessee, the lessee shall have  
6 a legal right to claim a refund of that amount from the lessor.  
7 If, however, that amount is not refunded to the lessee for any  
8 reason, the lessor is liable to pay that amount to the  
9 Department.

10 (23) Personal property purchased by a lessor who leases the  
11 property, under a lease of one year or longer executed or in  
12 effect at the time the lessor would otherwise be subject to the  
13 tax imposed by this Act, to a governmental body that has been  
14 issued an active sales tax exemption identification number by  
15 the Department under Section 1g of the Retailers' Occupation  
16 Tax Act. If the property is leased in a manner that does not  
17 qualify for this exemption or used in any other non-exempt  
18 manner, the lessor shall be liable for the tax imposed under  
19 this Act or the Service Use Tax Act, as the case may be, based  
20 on the fair market value of the property at the time the  
21 non-qualifying use occurs. No lessor shall collect or attempt  
22 to collect an amount (however designated) that purports to  
23 reimburse that lessor for the tax imposed by this Act or the  
24 Service Use Tax Act, as the case may be, if the tax has not been  
25 paid by the lessor. If a lessor improperly collects any such  
26 amount from the lessee, the lessee shall have a legal right to

1 claim a refund of that amount from the lessor. If, however,  
2 that amount is not refunded to the lessee for any reason, the  
3 lessor is liable to pay that amount to the Department.

4 (24) Beginning with taxable years ending on or after  
5 December 31, 1995 and ending with taxable years ending on or  
6 before December 31, 2004, personal property that is donated for  
7 disaster relief to be used in a State or federally declared  
8 disaster area in Illinois or bordering Illinois by a  
9 manufacturer or retailer that is registered in this State to a  
10 corporation, society, association, foundation, or institution  
11 that has been issued a sales tax exemption identification  
12 number by the Department that assists victims of the disaster  
13 who reside within the declared disaster area.

14 (25) Beginning with taxable years ending on or after  
15 December 31, 1995 and ending with taxable years ending on or  
16 before December 31, 2004, personal property that is used in the  
17 performance of infrastructure repairs in this State, including  
18 but not limited to municipal roads and streets, access roads,  
19 bridges, sidewalks, waste disposal systems, water and sewer  
20 line extensions, water distribution and purification  
21 facilities, storm water drainage and retention facilities, and  
22 sewage treatment facilities, resulting from a State or  
23 federally declared disaster in Illinois or bordering Illinois  
24 when such repairs are initiated on facilities located in the  
25 declared disaster area within 6 months after the disaster.

26 (26) Beginning July 1, 1999, game or game birds purchased

1 at a "game breeding and hunting preserve area" as that term is  
2 used in the Wildlife Code. This paragraph is exempt from the  
3 provisions of Section 3-90.

4 (27) A motor vehicle, as that term is defined in Section  
5 1-146 of the Illinois Vehicle Code, that is donated to a  
6 corporation, limited liability company, society, association,  
7 foundation, or institution that is determined by the Department  
8 to be organized and operated exclusively for educational  
9 purposes. For purposes of this exemption, "a corporation,  
10 limited liability company, society, association, foundation,  
11 or institution organized and operated exclusively for  
12 educational purposes" means all tax-supported public schools,  
13 private schools that offer systematic instruction in useful  
14 branches of learning by methods common to public schools and  
15 that compare favorably in their scope and intensity with the  
16 course of study presented in tax-supported schools, and  
17 vocational or technical schools or institutes organized and  
18 operated exclusively to provide a course of study of not less  
19 than 6 weeks duration and designed to prepare individuals to  
20 follow a trade or to pursue a manual, technical, mechanical,  
21 industrial, business, or commercial occupation.

22 (28) Beginning January 1, 2000, personal property,  
23 including food, purchased through fundraising events for the  
24 benefit of a public or private elementary or secondary school,  
25 a group of those schools, or one or more school districts if  
26 the events are sponsored by an entity recognized by the school

1 district that consists primarily of volunteers and includes  
2 parents and teachers of the school children. This paragraph  
3 does not apply to fundraising events (i) for the benefit of  
4 private home instruction or (ii) for which the fundraising  
5 entity purchases the personal property sold at the events from  
6 another individual or entity that sold the property for the  
7 purpose of resale by the fundraising entity and that profits  
8 from the sale to the fundraising entity. This paragraph is  
9 exempt from the provisions of Section 3-90.

10 (29) Beginning January 1, 2000 and through December 31,  
11 2001, new or used automatic vending machines that prepare and  
12 serve hot food and beverages, including coffee, soup, and other  
13 items, and replacement parts for these machines. Beginning  
14 January 1, 2002 and through June 30, 2003, machines and parts  
15 for machines used in commercial, coin-operated amusement and  
16 vending business if a use or occupation tax is paid on the  
17 gross receipts derived from the use of the commercial,  
18 coin-operated amusement and vending machines. This paragraph  
19 is exempt from the provisions of Section 3-90.

20 (30) Beginning January 1, 2001 and through June 30, 2016,  
21 food for human consumption that is to be consumed off the  
22 premises where it is sold (other than alcoholic beverages, soft  
23 drinks, and food that has been prepared for immediate  
24 consumption) and prescription and nonprescription medicines,  
25 drugs, medical appliances, and insulin, urine testing  
26 materials, syringes, and needles used by diabetics, for human

1 use, when purchased for use by a person receiving medical  
2 assistance under Article V of the Illinois Public Aid Code who  
3 resides in a licensed long-term care facility, as defined in  
4 the Nursing Home Care Act, or in a licensed facility as defined  
5 in the ID/DD Community Care Act, the MC/DD Act, or the  
6 Specialized Mental Health Rehabilitation Act of 2013.

7 (31) Beginning on August 2, 2001 (the effective date of  
8 Public Act 92-227) ~~this amendatory Act of the 92nd General~~  
9 ~~Assembly~~, computers and communications equipment utilized for  
10 any hospital purpose and equipment used in the diagnosis,  
11 analysis, or treatment of hospital patients purchased by a  
12 lessor who leases the equipment, under a lease of one year or  
13 longer executed or in effect at the time the lessor would  
14 otherwise be subject to the tax imposed by this Act, to a  
15 hospital that has been issued an active tax exemption  
16 identification number by the Department under Section 1g of the  
17 Retailers' Occupation Tax Act. If the equipment is leased in a  
18 manner that does not qualify for this exemption or is used in  
19 any other nonexempt manner, the lessor shall be liable for the  
20 tax imposed under this Act or the Service Use Tax Act, as the  
21 case may be, based on the fair market value of the property at  
22 the time the nonqualifying use occurs. No lessor shall collect  
23 or attempt to collect an amount (however designated) that  
24 purports to reimburse that lessor for the tax imposed by this  
25 Act or the Service Use Tax Act, as the case may be, if the tax  
26 has not been paid by the lessor. If a lessor improperly

1 collects any such amount from the lessee, the lessee shall have  
2 a legal right to claim a refund of that amount from the lessor.  
3 If, however, that amount is not refunded to the lessee for any  
4 reason, the lessor is liable to pay that amount to the  
5 Department. This paragraph is exempt from the provisions of  
6 Section 3-90.

7 (32) Beginning on August 2, 2001 (the effective date of  
8 Public Act 92-227) ~~this amendatory Act of the 92nd General~~  
9 ~~Assembly~~, personal property purchased by a lessor who leases  
10 the property, under a lease of one year or longer executed or  
11 in effect at the time the lessor would otherwise be subject to  
12 the tax imposed by this Act, to a governmental body that has  
13 been issued an active sales tax exemption identification number  
14 by the Department under Section 1g of the Retailers' Occupation  
15 Tax Act. If the property is leased in a manner that does not  
16 qualify for this exemption or used in any other nonexempt  
17 manner, the lessor shall be liable for the tax imposed under  
18 this Act or the Service Use Tax Act, as the case may be, based  
19 on the fair market value of the property at the time the  
20 nonqualifying use occurs. No lessor shall collect or attempt to  
21 collect an amount (however designated) that purports to  
22 reimburse that lessor for the tax imposed by this Act or the  
23 Service Use Tax Act, as the case may be, if the tax has not been  
24 paid by the lessor. If a lessor improperly collects any such  
25 amount from the lessee, the lessee shall have a legal right to  
26 claim a refund of that amount from the lessor. If, however,

1 that amount is not refunded to the lessee for any reason, the  
2 lessor is liable to pay that amount to the Department. This  
3 paragraph is exempt from the provisions of Section 3-90.

4 (33) On and after July 1, 2003 and through June 30, 2004,  
5 the use in this State of motor vehicles of the second division  
6 with a gross vehicle weight in excess of 8,000 pounds and that  
7 are subject to the commercial distribution fee imposed under  
8 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July  
9 1, 2004 and through June 30, 2005, the use in this State of  
10 motor vehicles of the second division: (i) with a gross vehicle  
11 weight rating in excess of 8,000 pounds; (ii) that are subject  
12 to the commercial distribution fee imposed under Section  
13 3-815.1 of the Illinois Vehicle Code; and (iii) that are  
14 primarily used for commercial purposes. Through June 30, 2005,  
15 this exemption applies to repair and replacement parts added  
16 after the initial purchase of such a motor vehicle if that  
17 motor vehicle is used in a manner that would qualify for the  
18 rolling stock exemption otherwise provided for in this Act. For  
19 purposes of this paragraph, the term "used for commercial  
20 purposes" means the transportation of persons or property in  
21 furtherance of any commercial or industrial enterprise,  
22 whether for-hire or not.

23 (34) Beginning January 1, 2008, tangible personal property  
24 used in the construction or maintenance of a community water  
25 supply, as defined under Section 3.145 of the Environmental  
26 Protection Act, that is operated by a not-for-profit



1 corporation that holds a valid water supply permit issued under  
2 Title IV of the Environmental Protection Act. This paragraph is  
3 exempt from the provisions of Section 3-90.

4 (35) Beginning January 1, 2010, materials, parts,  
5 equipment, components, and furnishings incorporated into or  
6 upon an aircraft as part of the modification, refurbishment,  
7 completion, replacement, repair, or maintenance of the  
8 aircraft. This exemption includes consumable supplies used in  
9 the modification, refurbishment, completion, replacement,  
10 repair, and maintenance of aircraft, but excludes any  
11 materials, parts, equipment, components, and consumable  
12 supplies used in the modification, replacement, repair, and  
13 maintenance of aircraft engines or power plants, whether such  
14 engines or power plants are installed or uninstalled upon any  
15 such aircraft. "Consumable supplies" include, but are not  
16 limited to, adhesive, tape, sandpaper, general purpose  
17 lubricants, cleaning solution, latex gloves, and protective  
18 films. This exemption applies only to the use of qualifying  
19 tangible personal property by persons who modify, refurbish,  
20 complete, repair, replace, or maintain aircraft and who (i)  
21 hold an Air Agency Certificate and are empowered to operate an  
22 approved repair station by the Federal Aviation  
23 Administration, (ii) have a Class IV Rating, and (iii) conduct  
24 operations in accordance with Part 145 of the Federal Aviation  
25 Regulations. The exemption does not include aircraft operated  
26 by a commercial air carrier providing scheduled passenger air

1 service pursuant to authority issued under Part 121 or Part 129  
2 of the Federal Aviation Regulations. The changes made to this  
3 paragraph (35) by Public Act 98-534 are declarative of existing  
4 law.

5 (36) Tangible personal property purchased by a  
6 public-facilities corporation, as described in Section  
7 11-65-10 of the Illinois Municipal Code, for purposes of  
8 constructing or furnishing a municipal convention hall, but  
9 only if the legal title to the municipal convention hall is  
10 transferred to the municipality without any further  
11 consideration by or on behalf of the municipality at the time  
12 of the completion of the municipal convention hall or upon the  
13 retirement or redemption of any bonds or other debt instruments  
14 issued by the public-facilities corporation in connection with  
15 the development of the municipal convention hall. This  
16 exemption includes existing public-facilities corporations as  
17 provided in Section 11-65-25 of the Illinois Municipal Code.  
18 This paragraph is exempt from the provisions of Section 3-90.

19 (37) Beginning January 1, 2017, menstrual pads, tampons,  
20 and menstrual cups.

21 (38) Merchandise that is subject to the Rental Purchase  
22 Agreement Occupation and Use Tax. The purchaser must certify  
23 that the item is purchased to be rented subject to a rental  
24 purchase agreement, as defined in the Rental Purchase Agreement  
25 Act, and provide proof of registration under the Rental  
26 Purchase Agreement Occupation and Use Tax Act. This paragraph

1 is exempt from the provisions of Section 3-90.

2 (Source: P.A. 99-180, eff. 7-29-15; 99-855, eff. 8-19-16;  
3 100-22, eff. 7-6-17; 100-437, eff. 1-1-18; revised 9-27-17.)

4 Section 10. If and only if Senate Bill 2641 of the 100th  
5 General Assembly, as amended by House Amendment No. 3, becomes  
6 law, then the Retailers' Occupation Tax Act is amended by  
7 changing Section 2-5 as follows:

8 (35 ILCS 120/2-5)

9 Sec. 2-5. Exemptions. Gross receipts from proceeds from the  
10 sale of the following tangible personal property are exempt  
11 from the tax imposed by this Act:

12 (1) Farm chemicals.

13 (2) Farm machinery and equipment, both new and used,  
14 including that manufactured on special order, certified by  
15 the purchaser to be used primarily for production  
16 agriculture or State or federal agricultural programs,  
17 including individual replacement parts for the machinery  
18 and equipment, including machinery and equipment purchased  
19 for lease, and including implements of husbandry defined in  
20 Section 1-130 of the Illinois Vehicle Code, farm machinery  
21 and agricultural chemical and fertilizer spreaders, and  
22 nurse wagons required to be registered under Section 3-809  
23 of the Illinois Vehicle Code, but excluding other motor  
24 vehicles required to be registered under the Illinois

1 Vehicle Code. Horticultural polyhouses or hoop houses used  
2 for propagating, growing, or overwintering plants shall be  
3 considered farm machinery and equipment under this item  
4 (2). Agricultural chemical tender tanks and dry boxes shall  
5 include units sold separately from a motor vehicle required  
6 to be licensed and units sold mounted on a motor vehicle  
7 required to be licensed, if the selling price of the tender  
8 is separately stated.

9 Farm machinery and equipment shall include precision  
10 farming equipment that is installed or purchased to be  
11 installed on farm machinery and equipment including, but  
12 not limited to, tractors, harvesters, sprayers, planters,  
13 seeders, or spreaders. Precision farming equipment  
14 includes, but is not limited to, soil testing sensors,  
15 computers, monitors, software, global positioning and  
16 mapping systems, and other such equipment.

17 Farm machinery and equipment also includes computers,  
18 sensors, software, and related equipment used primarily in  
19 the computer-assisted operation of production agriculture  
20 facilities, equipment, and activities such as, but not  
21 limited to, the collection, monitoring, and correlation of  
22 animal and crop data for the purpose of formulating animal  
23 diets and agricultural chemicals. This item (2) is exempt  
24 from the provisions of Section 2-70.

25 (3) Until July 1, 2003, distillation machinery and  
26 equipment, sold as a unit or kit, assembled or installed by

1 the retailer, certified by the user to be used only for the  
2 production of ethyl alcohol that will be used for  
3 consumption as motor fuel or as a component of motor fuel  
4 for the personal use of the user, and not subject to sale  
5 or resale.

6 (4) Until July 1, 2003 and beginning again September 1,  
7 2004 through August 30, 2014, graphic arts machinery and  
8 equipment, including repair and replacement parts, both  
9 new and used, and including that manufactured on special  
10 order or purchased for lease, certified by the purchaser to  
11 be used primarily for graphic arts production. Equipment  
12 includes chemicals or chemicals acting as catalysts but  
13 only if the chemicals or chemicals acting as catalysts  
14 effect a direct and immediate change upon a graphic arts  
15 product. Beginning on July 1, 2017, graphic arts machinery  
16 and equipment is included in the manufacturing and  
17 assembling machinery and equipment exemption under  
18 paragraph (14).

19 (5) A motor vehicle that is used for automobile  
20 renting, as defined in the Automobile Renting Occupation  
21 and Use Tax Act. This paragraph is exempt from the  
22 provisions of Section 2-70. This exemption does not include  
23 the sale of a motor vehicle which will be used in a car  
24 facilitation transaction, as defined in Section 1-110.06  
25 of the Illinois Vehicle Code.

26 (6) Personal property sold by a teacher-sponsored

1 student organization affiliated with an elementary or  
2 secondary school located in Illinois.

3 (7) Until July 1, 2003, proceeds of that portion of the  
4 selling price of a passenger car the sale of which is  
5 subject to the Replacement Vehicle Tax.

6 (8) Personal property sold to an Illinois county fair  
7 association for use in conducting, operating, or promoting  
8 the county fair.

9 (9) Personal property sold to a not-for-profit arts or  
10 cultural organization that establishes, by proof required  
11 by the Department by rule, that it has received an  
12 exemption under Section 501(c)(3) of the Internal Revenue  
13 Code and that is organized and operated primarily for the  
14 presentation or support of arts or cultural programming,  
15 activities, or services. These organizations include, but  
16 are not limited to, music and dramatic arts organizations  
17 such as symphony orchestras and theatrical groups, arts and  
18 cultural service organizations, local arts councils,  
19 visual arts organizations, and media arts organizations.  
20 On and after July 1, 2001 (the effective date of Public Act  
21 92-35) ~~this amendatory Act of the 92nd General Assembly,~~  
22 however, an entity otherwise eligible for this exemption  
23 shall not make tax-free purchases unless it has an active  
24 identification number issued by the Department.

25 (10) Personal property sold by a corporation, society,  
26 association, foundation, institution, or organization,

1 other than a limited liability company, that is organized  
2 and operated as a not-for-profit service enterprise for the  
3 benefit of persons 65 years of age or older if the personal  
4 property was not purchased by the enterprise for the  
5 purpose of resale by the enterprise.

6 (11) Personal property sold to a governmental body, to  
7 a corporation, society, association, foundation, or  
8 institution organized and operated exclusively for  
9 charitable, religious, or educational purposes, or to a  
10 not-for-profit corporation, society, association,  
11 foundation, institution, or organization that has no  
12 compensated officers or employees and that is organized and  
13 operated primarily for the recreation of persons 55 years  
14 of age or older. A limited liability company may qualify  
15 for the exemption under this paragraph only if the limited  
16 liability company is organized and operated exclusively  
17 for educational purposes. On and after July 1, 1987,  
18 however, no entity otherwise eligible for this exemption  
19 shall make tax-free purchases unless it has an active  
20 identification number issued by the Department.

21 (12) (Blank).

22 (12-5) On and after July 1, 2003 and through June 30,  
23 2004, motor vehicles of the second division with a gross  
24 vehicle weight in excess of 8,000 pounds that are subject  
25 to the commercial distribution fee imposed under Section  
26 3-815.1 of the Illinois Vehicle Code. Beginning on July 1,

1           2004 and through June 30, 2005, the use in this State of  
2           motor vehicles of the second division: (i) with a gross  
3           vehicle weight rating in excess of 8,000 pounds; (ii) that  
4           are subject to the commercial distribution fee imposed  
5           under Section 3-815.1 of the Illinois Vehicle Code; and  
6           (iii) that are primarily used for commercial purposes.  
7           Through June 30, 2005, this exemption applies to repair and  
8           replacement parts added after the initial purchase of such  
9           a motor vehicle if that motor vehicle is used in a manner  
10          that would qualify for the rolling stock exemption  
11          otherwise provided for in this Act. For purposes of this  
12          paragraph, "used for commercial purposes" means the  
13          transportation of persons or property in furtherance of any  
14          commercial or industrial enterprise whether for-hire or  
15          not.

16           (13) Proceeds from sales to owners, lessors, or  
17          shippers of tangible personal property that is utilized by  
18          interstate carriers for hire for use as rolling stock  
19          moving in interstate commerce and equipment operated by a  
20          telecommunications provider, licensed as a common carrier  
21          by the Federal Communications Commission, which is  
22          permanently installed in or affixed to aircraft moving in  
23          interstate commerce.

24           (14) Machinery and equipment that will be used by the  
25          purchaser, or a lessee of the purchaser, primarily in the  
26          process of manufacturing or assembling tangible personal



1 property for wholesale or retail sale or lease, whether the  
2 sale or lease is made directly by the manufacturer or by  
3 some other person, whether the materials used in the  
4 process are owned by the manufacturer or some other person,  
5 or whether the sale or lease is made apart from or as an  
6 incident to the seller's engaging in the service occupation  
7 of producing machines, tools, dies, jigs, patterns,  
8 gauges, or other similar items of no commercial value on  
9 special order for a particular purchaser. The exemption  
10 provided by this paragraph (14) does not include machinery  
11 and equipment used in (i) the generation of electricity for  
12 wholesale or retail sale; (ii) the generation or treatment  
13 of natural or artificial gas for wholesale or retail sale  
14 that is delivered to customers through pipes, pipelines, or  
15 mains; or (iii) the treatment of water for wholesale or  
16 retail sale that is delivered to customers through pipes,  
17 pipelines, or mains. The provisions of Public Act 98-583  
18 are declaratory of existing law as to the meaning and scope  
19 of this exemption. Beginning on July 1, 2017, the exemption  
20 provided by this paragraph (14) includes, but is not  
21 limited to, graphic arts machinery and equipment, as  
22 defined in paragraph (4) of this Section.

23 (15) Proceeds of mandatory service charges separately  
24 stated on customers' bills for purchase and consumption of  
25 food and beverages, to the extent that the proceeds of the  
26 service charge are in fact turned over as tips or as a

1 substitute for tips to the employees who participate  
2 directly in preparing, serving, hosting or cleaning up the  
3 food or beverage function with respect to which the service  
4 charge is imposed.

5 (16) Petroleum products sold to a purchaser if the  
6 seller is prohibited by federal law from charging tax to  
7 the purchaser.

8 (17) Tangible personal property sold to a common  
9 carrier by rail or motor that receives the physical  
10 possession of the property in Illinois and that transports  
11 the property, or shares with another common carrier in the  
12 transportation of the property, out of Illinois on a  
13 standard uniform bill of lading showing the seller of the  
14 property as the shipper or consignor of the property to a  
15 destination outside Illinois, for use outside Illinois.

16 (18) Legal tender, currency, medallions, or gold or  
17 silver coinage issued by the State of Illinois, the  
18 government of the United States of America, or the  
19 government of any foreign country, and bullion.

20 (19) Until July 1, 2003, oil field exploration,  
21 drilling, and production equipment, including (i) rigs and  
22 parts of rigs, rotary rigs, cable tool rigs, and workover  
23 rigs, (ii) pipe and tubular goods, including casing and  
24 drill strings, (iii) pumps and pump-jack units, (iv)  
25 storage tanks and flow lines, (v) any individual  
26 replacement part for oil field exploration, drilling, and

1 production equipment, and (vi) machinery and equipment  
2 purchased for lease; but excluding motor vehicles required  
3 to be registered under the Illinois Vehicle Code.

4 (20) Photoprocessing machinery and equipment,  
5 including repair and replacement parts, both new and used,  
6 including that manufactured on special order, certified by  
7 the purchaser to be used primarily for photoprocessing, and  
8 including photoprocessing machinery and equipment  
9 purchased for lease.

10 (21) Coal and aggregate exploration, mining,  
11 off-highway hauling, processing, maintenance, and  
12 reclamation equipment, including replacement parts and  
13 equipment, and including equipment purchased for lease,  
14 but excluding motor vehicles required to be registered  
15 under the Illinois Vehicle Code. The changes made to this  
16 Section by Public Act 97-767 apply on and after July 1,  
17 2003, but no claim for credit or refund is allowed on or  
18 after August 16, 2013 (the effective date of Public Act  
19 98-456) for such taxes paid during the period beginning  
20 July 1, 2003 and ending on August 16, 2013 (the effective  
21 date of Public Act 98-456).

22 (22) Until June 30, 2013, fuel and petroleum products  
23 sold to or used by an air carrier, certified by the carrier  
24 to be used for consumption, shipment, or storage in the  
25 conduct of its business as an air common carrier, for a  
26 flight destined for or returning from a location or

1 locations outside the United States without regard to  
2 previous or subsequent domestic stopovers.

3 Beginning July 1, 2013, fuel and petroleum products  
4 sold to or used by an air carrier, certified by the carrier  
5 to be used for consumption, shipment, or storage in the  
6 conduct of its business as an air common carrier, for a  
7 flight that (i) is engaged in foreign trade or is engaged  
8 in trade between the United States and any of its  
9 possessions and (ii) transports at least one individual or  
10 package for hire from the city of origination to the city  
11 of final destination on the same aircraft, without regard  
12 to a change in the flight number of that aircraft.

13 (23) A transaction in which the purchase order is  
14 received by a florist who is located outside Illinois, but  
15 who has a florist located in Illinois deliver the property  
16 to the purchaser or the purchaser's donee in Illinois.

17 (24) Fuel consumed or used in the operation of ships,  
18 barges, or vessels that are used primarily in or for the  
19 transportation of property or the conveyance of persons for  
20 hire on rivers bordering on this State if the fuel is  
21 delivered by the seller to the purchaser's barge, ship, or  
22 vessel while it is afloat upon that bordering river.

23 (25) Except as provided in item (25-5) of this Section,  
24 a motor vehicle sold in this State to a nonresident even  
25 though the motor vehicle is delivered to the nonresident in  
26 this State, if the motor vehicle is not to be titled in

1       this State, and if a drive-away permit is issued to the  
2       motor vehicle as provided in Section 3-603 of the Illinois  
3       Vehicle Code or if the nonresident purchaser has vehicle  
4       registration plates to transfer to the motor vehicle upon  
5       returning to his or her home state. The issuance of the  
6       drive-away permit or having the out-of-state registration  
7       plates to be transferred is prima facie evidence that the  
8       motor vehicle will not be titled in this State.

9           (25-5) The exemption under item (25) does not apply if  
10       the state in which the motor vehicle will be titled does  
11       not allow a reciprocal exemption for a motor vehicle sold  
12       and delivered in that state to an Illinois resident but  
13       titled in Illinois. The tax collected under this Act on the  
14       sale of a motor vehicle in this State to a resident of  
15       another state that does not allow a reciprocal exemption  
16       shall be imposed at a rate equal to the state's rate of tax  
17       on taxable property in the state in which the purchaser is  
18       a resident, except that the tax shall not exceed the tax  
19       that would otherwise be imposed under this Act. At the time  
20       of the sale, the purchaser shall execute a statement,  
21       signed under penalty of perjury, of his or her intent to  
22       title the vehicle in the state in which the purchaser is a  
23       resident within 30 days after the sale and of the fact of  
24       the payment to the State of Illinois of tax in an amount  
25       equivalent to the state's rate of tax on taxable property  
26       in his or her state of residence and shall submit the

1 statement to the appropriate tax collection agency in his  
2 or her state of residence. In addition, the retailer must  
3 retain a signed copy of the statement in his or her  
4 records. Nothing in this item shall be construed to require  
5 the removal of the vehicle from this state following the  
6 filing of an intent to title the vehicle in the purchaser's  
7 state of residence if the purchaser titles the vehicle in  
8 his or her state of residence within 30 days after the date  
9 of sale. The tax collected under this Act in accordance  
10 with this item (25-5) shall be proportionately distributed  
11 as if the tax were collected at the 6.25% general rate  
12 imposed under this Act.

13 (25-7) Beginning on July 1, 2007, no tax is imposed  
14 under this Act on the sale of an aircraft, as defined in  
15 Section 3 of the Illinois Aeronautics Act, if all of the  
16 following conditions are met:

17 (1) the aircraft leaves this State within 15 days  
18 after the later of either the issuance of the final  
19 billing for the sale of the aircraft, or the authorized  
20 approval for return to service, completion of the  
21 maintenance record entry, and completion of the test  
22 flight and ground test for inspection, as required by  
23 14 C.F.R. 91.407;

24 (2) the aircraft is not based or registered in this  
25 State after the sale of the aircraft; and

26 (3) the seller retains in his or her books and

1 records and provides to the Department a signed and  
2 dated certification from the purchaser, on a form  
3 prescribed by the Department, certifying that the  
4 requirements of this item (25-7) are met. The  
5 certificate must also include the name and address of  
6 the purchaser, the address of the location where the  
7 aircraft is to be titled or registered, the address of  
8 the primary physical location of the aircraft, and  
9 other information that the Department may reasonably  
10 require.

11 For purposes of this item (25-7):

12 "Based in this State" means hangared, stored, or  
13 otherwise used, excluding post-sale customizations as  
14 defined in this Section, for 10 or more days in each  
15 12-month period immediately following the date of the sale  
16 of the aircraft.

17 "Registered in this State" means an aircraft  
18 registered with the Department of Transportation,  
19 Aeronautics Division, or titled or registered with the  
20 Federal Aviation Administration to an address located in  
21 this State.

22 This paragraph (25-7) is exempt from the provisions of  
23 Section 2-70.

24 (26) Semen used for artificial insemination of  
25 livestock for direct agricultural production.

26 (27) Horses, or interests in horses, registered with

1 and meeting the requirements of any of the Arabian Horse  
2 Club Registry of America, Appaloosa Horse Club, American  
3 Quarter Horse Association, United States Trotting  
4 Association, or Jockey Club, as appropriate, used for  
5 purposes of breeding or racing for prizes. This item (27)  
6 is exempt from the provisions of Section 2-70, and the  
7 exemption provided for under this item (27) applies for all  
8 periods beginning May 30, 1995, but no claim for credit or  
9 refund is allowed on or after January 1, 2008 (the  
10 effective date of Public Act 95-88) for such taxes paid  
11 during the period beginning May 30, 2000 and ending on  
12 January 1, 2008 (the effective date of Public Act 95-88).

13 (28) Computers and communications equipment utilized  
14 for any hospital purpose and equipment used in the  
15 diagnosis, analysis, or treatment of hospital patients  
16 sold to a lessor who leases the equipment, under a lease of  
17 one year or longer executed or in effect at the time of the  
18 purchase, to a hospital that has been issued an active tax  
19 exemption identification number by the Department under  
20 Section 1g of this Act.

21 (29) Personal property sold to a lessor who leases the  
22 property, under a lease of one year or longer executed or  
23 in effect at the time of the purchase, to a governmental  
24 body that has been issued an active tax exemption  
25 identification number by the Department under Section 1g of  
26 this Act.



1           (30) Beginning with taxable years ending on or after  
2           December 31, 1995 and ending with taxable years ending on  
3           or before December 31, 2004, personal property that is  
4           donated for disaster relief to be used in a State or  
5           federally declared disaster area in Illinois or bordering  
6           Illinois by a manufacturer or retailer that is registered  
7           in this State to a corporation, society, association,  
8           foundation, or institution that has been issued a sales tax  
9           exemption identification number by the Department that  
10          assists victims of the disaster who reside within the  
11          declared disaster area.

12          (31) Beginning with taxable years ending on or after  
13          December 31, 1995 and ending with taxable years ending on  
14          or before December 31, 2004, personal property that is used  
15          in the performance of infrastructure repairs in this State,  
16          including but not limited to municipal roads and streets,  
17          access roads, bridges, sidewalks, waste disposal systems,  
18          water and sewer line extensions, water distribution and  
19          purification facilities, storm water drainage and  
20          retention facilities, and sewage treatment facilities,  
21          resulting from a State or federally declared disaster in  
22          Illinois or bordering Illinois when such repairs are  
23          initiated on facilities located in the declared disaster  
24          area within 6 months after the disaster.

25          (32) Beginning July 1, 1999, game or game birds sold at  
26          a "game breeding and hunting preserve area" as that term is

1 used in the Wildlife Code. This paragraph is exempt from  
2 the provisions of Section 2-70.

3 (33) A motor vehicle, as that term is defined in  
4 Section 1-146 of the Illinois Vehicle Code, that is donated  
5 to a corporation, limited liability company, society,  
6 association, foundation, or institution that is determined  
7 by the Department to be organized and operated exclusively  
8 for educational purposes. For purposes of this exemption,  
9 "a corporation, limited liability company, society,  
10 association, foundation, or institution organized and  
11 operated exclusively for educational purposes" means all  
12 tax-supported public schools, private schools that offer  
13 systematic instruction in useful branches of learning by  
14 methods common to public schools and that compare favorably  
15 in their scope and intensity with the course of study  
16 presented in tax-supported schools, and vocational or  
17 technical schools or institutes organized and operated  
18 exclusively to provide a course of study of not less than 6  
19 weeks duration and designed to prepare individuals to  
20 follow a trade or to pursue a manual, technical,  
21 mechanical, industrial, business, or commercial  
22 occupation.

23 (34) Beginning January 1, 2000, personal property,  
24 including food, purchased through fundraising events for  
25 the benefit of a public or private elementary or secondary  
26 school, a group of those schools, or one or more school

1 districts if the events are sponsored by an entity  
2 recognized by the school district that consists primarily  
3 of volunteers and includes parents and teachers of the  
4 school children. This paragraph does not apply to  
5 fundraising events (i) for the benefit of private home  
6 instruction or (ii) for which the fundraising entity  
7 purchases the personal property sold at the events from  
8 another individual or entity that sold the property for the  
9 purpose of resale by the fundraising entity and that  
10 profits from the sale to the fundraising entity. This  
11 paragraph is exempt from the provisions of Section 2-70.

12 (35) Beginning January 1, 2000 and through December 31,  
13 2001, new or used automatic vending machines that prepare  
14 and serve hot food and beverages, including coffee, soup,  
15 and other items, and replacement parts for these machines.  
16 Beginning January 1, 2002 and through June 30, 2003,  
17 machines and parts for machines used in commercial,  
18 coin-operated amusement and vending business if a use or  
19 occupation tax is paid on the gross receipts derived from  
20 the use of the commercial, coin-operated amusement and  
21 vending machines. This paragraph is exempt from the  
22 provisions of Section 2-70.

23 (35-5) Beginning August 23, 2001 and through June 30,  
24 2016, food for human consumption that is to be consumed off  
25 the premises where it is sold (other than alcoholic  
26 beverages, soft drinks, and food that has been prepared for

1 immediate consumption) and prescription and  
2 nonprescription medicines, drugs, medical appliances, and  
3 insulin, urine testing materials, syringes, and needles  
4 used by diabetics, for human use, when purchased for use by  
5 a person receiving medical assistance under Article V of  
6 the Illinois Public Aid Code who resides in a licensed  
7 long-term care facility, as defined in the Nursing Home  
8 Care Act, or a licensed facility as defined in the ID/DD  
9 Community Care Act, the MC/DD Act, or the Specialized  
10 Mental Health Rehabilitation Act of 2013.

11 (36) Beginning August 2, 2001, computers and  
12 communications equipment utilized for any hospital purpose  
13 and equipment used in the diagnosis, analysis, or treatment  
14 of hospital patients sold to a lessor who leases the  
15 equipment, under a lease of one year or longer executed or  
16 in effect at the time of the purchase, to a hospital that  
17 has been issued an active tax exemption identification  
18 number by the Department under Section 1g of this Act. This  
19 paragraph is exempt from the provisions of Section 2-70.

20 (37) Beginning August 2, 2001, personal property sold  
21 to a lessor who leases the property, under a lease of one  
22 year or longer executed or in effect at the time of the  
23 purchase, to a governmental body that has been issued an  
24 active tax exemption identification number by the  
25 Department under Section 1g of this Act. This paragraph is  
26 exempt from the provisions of Section 2-70.

1           (38) Beginning on January 1, 2002 and through June 30,  
2           2016, tangible personal property purchased from an  
3           Illinois retailer by a taxpayer engaged in centralized  
4           purchasing activities in Illinois who will, upon receipt of  
5           the property in Illinois, temporarily store the property in  
6           Illinois (i) for the purpose of subsequently transporting  
7           it outside this State for use or consumption thereafter  
8           solely outside this State or (ii) for the purpose of being  
9           processed, fabricated, or manufactured into, attached to,  
10          or incorporated into other tangible personal property to be  
11          transported outside this State and thereafter used or  
12          consumed solely outside this State. The Director of Revenue  
13          shall, pursuant to rules adopted in accordance with the  
14          Illinois Administrative Procedure Act, issue a permit to  
15          any taxpayer in good standing with the Department who is  
16          eligible for the exemption under this paragraph (38). The  
17          permit issued under this paragraph (38) shall authorize the  
18          holder, to the extent and in the manner specified in the  
19          rules adopted under this Act, to purchase tangible personal  
20          property from a retailer exempt from the taxes imposed by  
21          this Act. Taxpayers shall maintain all necessary books and  
22          records to substantiate the use and consumption of all such  
23          tangible personal property outside of the State of  
24          Illinois.

25          (39) Beginning January 1, 2008, tangible personal  
26          property used in the construction or maintenance of a

1 community water supply, as defined under Section 3.145 of  
2 the Environmental Protection Act, that is operated by a  
3 not-for-profit corporation that holds a valid water supply  
4 permit issued under Title IV of the Environmental  
5 Protection Act. This paragraph is exempt from the  
6 provisions of Section 2-70.

7 (40) Beginning January 1, 2010, materials, parts,  
8 equipment, components, and furnishings incorporated into  
9 or upon an aircraft as part of the modification,  
10 refurbishment, completion, replacement, repair, or  
11 maintenance of the aircraft. This exemption includes  
12 consumable supplies used in the modification,  
13 refurbishment, completion, replacement, repair, and  
14 maintenance of aircraft, but excludes any materials,  
15 parts, equipment, components, and consumable supplies used  
16 in the modification, replacement, repair, and maintenance  
17 of aircraft engines or power plants, whether such engines  
18 or power plants are installed or uninstalled upon any such  
19 aircraft. "Consumable supplies" include, but are not  
20 limited to, adhesive, tape, sandpaper, general purpose  
21 lubricants, cleaning solution, latex gloves, and  
22 protective films. This exemption applies only to the sale  
23 of qualifying tangible personal property to persons who  
24 modify, refurbish, complete, replace, or maintain an  
25 aircraft and who (i) hold an Air Agency Certificate and are  
26 empowered to operate an approved repair station by the

1 Federal Aviation Administration, (ii) have a Class IV  
2 Rating, and (iii) conduct operations in accordance with  
3 Part 145 of the Federal Aviation Regulations. The exemption  
4 does not include aircraft operated by a commercial air  
5 carrier providing scheduled passenger air service pursuant  
6 to authority issued under Part 121 or Part 129 of the  
7 Federal Aviation Regulations. The changes made to this  
8 paragraph (40) by Public Act 98-534 are declarative of  
9 existing law.

10 (41) Tangible personal property sold to a  
11 public-facilities corporation, as described in Section  
12 11-65-10 of the Illinois Municipal Code, for purposes of  
13 constructing or furnishing a municipal convention hall,  
14 but only if the legal title to the municipal convention  
15 hall is transferred to the municipality without any further  
16 consideration by or on behalf of the municipality at the  
17 time of the completion of the municipal convention hall or  
18 upon the retirement or redemption of any bonds or other  
19 debt instruments issued by the public-facilities  
20 corporation in connection with the development of the  
21 municipal convention hall. This exemption includes  
22 existing public-facilities corporations as provided in  
23 Section 11-65-25 of the Illinois Municipal Code. This  
24 paragraph is exempt from the provisions of Section 2-70.

25 (42) Beginning January 1, 2017, menstrual pads,  
26 tampons, and menstrual cups.

1           (43) Merchandise that is subject to the Rental Purchase  
2 Agreement Occupation and Use Tax. The purchaser must  
3 certify that the item is purchased to be rented subject to  
4 a rental purchase agreement, as defined in the Rental  
5 Purchase Agreement Act, and provide proof of registration  
6 under the Rental Purchase Agreement Occupation and Use Tax  
7 Act. This paragraph is exempt from the provisions of  
8 Section 2-70.

9 (Source: P.A. 99-180, eff. 7-29-15; 99-855, eff. 8-19-16;  
10 100-22, eff. 7-6-17; 100-321, eff. 8-24-17; 100-437, eff.  
11 1-1-18; revised 9-26-17.)

12           Section 15. If and only if Senate Bill 2641 of the 100th  
13 General Assembly, as amended by House Amendment No. 3, becomes  
14 law, then the Automobile Renting Occupation and Use Tax Act is  
15 amended by changing Section 2 as follows:

16           (35 ILCS 155/2) (from Ch. 120, par. 1702)

17           Sec. 2. Definitions. "Renting" means any transfer of the  
18 possession or right to possession of an automobile to a user  
19 for a valuable consideration for a period of one year or less,  
20 including the facilitation of the use of a privately-owned  
21 passenger motor vehicle ~~for use~~ by persons other than the  
22 vehicle's registered owner as ~~an~~ part of a car facilitation  
23 transaction, as defined in Section 1-110.06 of the Illinois  
24 Vehicle Code.



1 "Renting" does not include making a charge for the use of  
2 an automobile where the rentor, either himself or through an  
3 agent, furnishes a service of operating an automobile so that  
4 the rentor remains in possession of the automobile, because  
5 this does not constitute a transfer of possession or right to  
6 possession of the automobile.

7 "Renting" does not include the making of a charge by an  
8 automobile dealer for the use of an automobile as a  
9 demonstrator in connection with the dealer's business of  
10 selling, where the charge is merely made to recover the costs  
11 of operating the automobile as a demonstrator and is not  
12 intended as a rental or leasing charge in the ordinary sense.

13 "Automobile" means (1) any motor vehicle of the first  
14 division, or (2) a motor vehicle of the second division which:  
15 (A) is a self-contained motor vehicle designed or permanently  
16 converted to provide living quarters for recreational, camping  
17 or travel use, with direct walk through access to the living  
18 quarters from the driver's seat; (B) is of the van  
19 configuration designed for the transportation of not less than  
20 7 nor more than 16 passengers, as defined in Section 1-146 of  
21 the Illinois Vehicle Code; or (C) has a Gross Vehicle Weight  
22 Rating, as defined in Section 1-124.5 of the Illinois Vehicle  
23 Code, of 8,000 pounds or less.

24 "Department" means the Department of Revenue.

25 "Person" means any natural individual, firm, partnership,  
26 association, joint stock company, joint adventure, public or

1 private corporation, limited liability company, or a receiver,  
2 executor, trustee, conservator or other representative  
3 appointed by order of any court.

4 "Rentor" means any person, firm, corporation or  
5 association engaged in the business of renting or leasing  
6 automobiles to users. For this purpose, the objective of making  
7 a profit is not necessary to make the renting activity a  
8 business. "Rentor" includes a car facilitation company as  
9 defined in Section 1-110.05 of the Illinois Vehicle Code.

10 "Rentee" means any user to whom the possession, or the  
11 right to possession, of an automobile is transferred for a  
12 valuable consideration for a period of one year or less,  
13 whether paid for by the "rentee" or by someone else.

14 "Gross receipts" from the renting of tangible personal  
15 property or "rent" means the total rental price or leasing  
16 price. In the case of rental transactions in which the  
17 consideration is paid to the rentor on an installment basis,  
18 the amounts of such payments shall be included by the rentor in  
19 gross receipts or rent only as and when payments are received  
20 by the rentor.

21 "Gross receipts" does not include receipts received by an  
22 automobile dealer from a manufacturer or service contract  
23 provider for the use of an automobile by a person while that  
24 person's automobile is being repaired by that automobile dealer  
25 and the repair is made pursuant to a manufacturer's warranty or  
26 a service contract where a manufacturer or service contract

1 provider reimburses that automobile dealer pursuant to a  
2 manufacturer's warranty or a service contract and the  
3 reimbursement is merely made to recover the costs of operating  
4 the automobile as a loaner vehicle.

5 "Rental price" means the consideration for renting or  
6 leasing an automobile valued in money, whether received in  
7 money or otherwise, including cash credits, property and  
8 services, and shall be determined without any deduction on  
9 account of the cost of the property rented, the cost of  
10 materials used, labor or service cost, or any other expense  
11 whatsoever, but does not include charges that are added by a  
12 rentor on account of the rentor's tax liability under this Act  
13 or on account of the rentor's duty to collect, from the rentee,  
14 the tax that is imposed by Section 4 of this Act. The phrase  
15 "rental price" does not include compensation paid to a rentor  
16 by a rentee in consideration of the waiver by the rentor of any  
17 right of action or claim against the rentee for loss or damage  
18 to the automobile rented and also does not include a separately  
19 stated charge for insurance or recovery of refueling costs or  
20 other separately stated charges that are not for the use of  
21 tangible personal property.

22 (Source: 10000SB2641ham003.)

23 Section 20. If and only if Senate Bill 2641 of the 100th  
24 General Assembly, as amended by House Amendment No. 3, becomes  
25 law, then the Counties Code is amended by changing Section

1 5-1032 as follows:

2 (55 ILCS 5/5-1032) (from Ch. 34, par. 5-1032)

3 Sec. 5-1032. County Automobile Renting Occupation Tax. The  
4 corporate authorities of a county may impose a tax upon all  
5 persons engaged in the business of renting automobiles in the  
6 county, but outside any municipality, at the rate of not to  
7 exceed 1% of the gross receipts from such business. For the  
8 purposes of imposing a tax under this Section, the facilitation  
9 of the use of a privately-owned passenger motor vehicle ~~for use~~  
10 by a person other than the vehicle's registered owner as a part  
11 of a car facilitation transaction, as defined in Section  
12 1-110.06 of the Illinois Vehicle Code, constitutes engaging in  
13 the business of renting automobiles in the county. The tax  
14 imposed by a county pursuant to this Section and all civil  
15 penalties that may be assessed as an Incident thereof shall be  
16 collected and enforced by the State Department of Revenue. The  
17 certificate of registration which is issued by the Department  
18 to a retailer under the "Retailers' Occupation Tax Act",  
19 approved June 23, 1933, as amended, or under the "Automobile  
20 Renting Occupation and Use Tax Act", enacted by the  
21 Eighty-Second General Assembly, shall permit such person to  
22 engage in a business which is taxable under any ordinance or  
23 resolution enacted pursuant to this Section without  
24 registering separately with the Department under such  
25 ordinance or resolution or under this Section. The Department

1 shall have full power to administer and enforce this Section;  
2 to collect all taxes and penalties due hereunder; to dispose of  
3 taxes and penalties so collected in the manner hereinafter  
4 provided, and to determine all rights to credit memoranda,  
5 arising on account of the erroneous payment of tax or penalty  
6 hereunder. In the administration of, and compliance with, this  
7 Section, the Department and persons who are subject to this  
8 Section shall have the same rights, remedies, privileges,  
9 immunities, powers and duties, and be subject to the same  
10 conditions, restrictions, limitations, penalties and  
11 definitions of terms, and employ the same modes of procedure,  
12 as are prescribed in Sections 2 and 3 (in respect to all  
13 provisions therein other than the State rate of tax; and with  
14 relation to the provisions of the "Retailers' Occupation Tax"  
15 referred to therein, except as to the disposition of taxes and  
16 penalties collected, and except for the provision allowing  
17 retailers a deduction from the tax to cover certain costs, and  
18 except that credit memoranda issued hereunder may not be used  
19 to discharge any State tax liability) of the "Automobile  
20 Renting Occupation and Use Tax Act", as the same are now or may  
21 hereafter be amended, as fully as if provisions contained in  
22 those Sections of said Act were set forth herein.

23 Persons subject to any tax imposed pursuant to the  
24 authority granted in this Section may reimburse themselves for  
25 their tax liability hereunder by separately stating such tax as  
26 an additional charge, which charge may be stated in

1 combination, in a single amount, with State tax which sellers  
2 are required to collect under the "Automobile Renting  
3 Occupation and Use Tax Act" pursuant to such bracket schedules  
4 as the Department may prescribe.

5 Whenever the Department determines that a refund should be  
6 made under this Section to a claimant instead of issuing a  
7 credit memorandum, the Department shall notify the State  
8 Comptroller, who shall cause the order to be drawn for the  
9 amount specified, and to the person named, in such notification  
10 from the Department. Such refund shall be paid by the State  
11 Treasurer out of the county automobile renting tax fund.

12 The Department shall forthwith pay over to the State  
13 Treasurer, ex-officio, as trustee, all taxes and penalties  
14 collected hereunder. On or before the 25th day of each calendar  
15 month, the Department shall prepare and certify to the  
16 Comptroller the disbursement of stated sums of money to named  
17 counties from which renters have paid taxes or penalties  
18 hereunder to the Department during the second preceding  
19 calendar month. The amount to be paid to each county shall be  
20 the amount (not including credit memoranda) collected  
21 hereunder during the second preceding calendar month by the  
22 Department, and not including an amount equal to the amount of  
23 refunds made during the second preceding calendar month by the  
24 Department on behalf of such county, less 2% of such balance,  
25 which sum shall be retained by the State Treasurer to cover the  
26 costs incurred by the Department in administering and enforcing

1 this Section as provided herein. The Department at the time of  
2 each monthly disbursement to the counties shall prepare and  
3 certify to the Comptroller the amount, so retained by the State  
4 Treasurer, to be paid into the General Revenue Fund of the  
5 State Treasury. Within 10 days after receipt, by the  
6 Comptroller, of the disbursement certification to the counties  
7 and the General Revenue Fund, provided for in this Section to  
8 be given to the Comptroller by the Department, the Comptroller  
9 shall cause the orders to be drawn for the respective amounts  
10 in accordance with the directions contained in such  
11 certification.

12 Nothing in this Section shall be construed to authorize a  
13 county to impose a tax upon the privilege of engaging in any  
14 business which under the constitution of the United States may  
15 not be made the subject of taxation by this State.

16 An ordinance or resolution imposing a tax hereunder or  
17 effecting a change in the rate thereof shall be effective on  
18 the first day of the calendar month next following the month in  
19 which such ordinance or resolution is passed. The corporate  
20 authorities of any county which levies a tax authorized by this  
21 Section shall transmit to the Department of Revenue on or not  
22 later than 5 days after passage of the ordinance or resolution  
23 a certified copy of the ordinance or resolution imposing such  
24 tax whereupon the Department of Revenue shall proceed to  
25 administer and enforce this Section on behalf of such county as  
26 of the effective date of the ordinance or resolution. Upon a

1 change in rate of a tax levied hereunder, or upon the  
2 discontinuance of the tax, the corporate authorities of the  
3 county shall on or not later than 5 days after passage of the  
4 ordinance or resolution discontinuing the tax or effecting a  
5 change in rate transmit to the Department of Revenue a  
6 certified copy of the ordinance or resolution effecting such  
7 change or discontinuance.

8 The Department of Revenue must upon the request of the  
9 County Clerk or County Board submit to a county a list of those  
10 persons who are registered with the Department to pay  
11 automobile renting occupation tax within the unincorporated  
12 area of that governmental unit. This list shall contain only  
13 the names of persons who have paid the tax and not the amount  
14 of tax paid by such person.

15 This Section shall be known and may be cited as the "County  
16 Automobile Renting Occupation Tax Law".

17 (Source: 10000SB2641ham003.)

18 Section 25. If and only if Senate Bill 2641 of the 100th  
19 General Assembly, as amended by House Amendment No. 3, becomes  
20 law, then the Illinois Municipal Code is amended by changing  
21 Section 8-11-7 as follows:

22 (65 ILCS 5/8-11-7) (from Ch. 24, par. 8-11-7)

23 Sec. 8-11-7. The corporate authorities of a municipality  
24 may impose a tax upon all persons engaged in the business of



1 renting automobiles in the municipality at the rate of not to  
2 exceed 1% of the gross receipts from such business. For the  
3 purposes of imposing a tax under this Section, the facilitation  
4 of the use of a privately-owned passenger motor vehicle ~~for use~~  
5 by a person other than the vehicle's registered owner as a part  
6 of a car facilitation transaction, as defined in Section  
7 1-110.06 of the Illinois Vehicle Code, constitutes engaging in  
8 the business of renting automobiles in the municipality. The  
9 tax imposed by a municipality pursuant to this Section and all  
10 civil penalties that may be assessed as an incident thereof  
11 shall be collected and enforced by the State Department of  
12 Revenue. The certificate of registration which is issued by the  
13 Department to a retailer under the Retailers' Occupation Tax  
14 Act or under the Automobile Renting Occupation and Use Tax Act  
15 shall permit such person to engage in a business which is  
16 taxable under any ordinance or resolution enacted pursuant to  
17 this Section without registering separately with the  
18 Department under such ordinance or resolution or under this  
19 Section. The Department shall have full power to administer and  
20 enforce this Section; to collect all taxes and penalties due  
21 hereunder; to dispose of taxes and penalties so collected in  
22 the manner hereinafter provided; and to determine all rights to  
23 credit memoranda, arising on account of the erroneous payment  
24 of tax or penalty hereunder. In the administration of, and  
25 compliance with, this Section, the Department and persons who  
26 are subject to this Section shall have the same rights,

1 remedies, privileges, immunities, powers and duties, and be  
2 subject to the same conditions, restrictions, limitations,  
3 penalties and definitions of terms, and employ the same modes  
4 of procedure, as are prescribed in Sections 2 and 3 (in respect  
5 to all provisions therein other than the State rate of tax; and  
6 with relation to the provisions of the "Retailers' Occupation  
7 Tax" referred to therein, except as to the disposition of taxes  
8 and penalties collected, and except for the provision allowing  
9 retailers a deduction from the tax to cover certain costs, and  
10 except that credit memoranda issued hereunder may not be used  
11 to discharge any State tax liability) of the Automobile Renting  
12 Occupation and Use Tax Act, as fully as if those provisions  
13 were set forth herein.

14 Persons subject to any tax imposed pursuant to the  
15 authority granted in this Section may reimburse themselves for  
16 their tax liability hereunder by separately stating such tax as  
17 an additional charge, which charge may be stated in  
18 combination, in a single amount, with State tax which sellers  
19 are required to collect under the Automobile Renting Occupation  
20 and Use Tax Act pursuant to such bracket schedules as the  
21 Department may prescribe.

22 Whenever the Department determines that a refund should be  
23 made under this Section to a claimant instead of issuing a  
24 credit memorandum, the Department shall notify the State  
25 Comptroller, who shall cause the order to be drawn for the  
26 amount specified, and to the person named, in such notification

1 from the Department. Such refund shall be paid by the State  
2 Treasurer out of the municipal automobile renting tax fund.

3 The Department shall forthwith pay over to the State  
4 Treasurer, ex-officio, as trustee, all taxes and penalties  
5 collected hereunder. On or before the 25th day of each calendar  
6 month, the Department shall prepare and certify to the  
7 Comptroller the disbursement of stated sums of money to named  
8 municipalities, the municipalities to be those from which  
9 renters have paid taxes or penalties hereunder to the  
10 Department during the second preceding calendar month. The  
11 amount to be paid to each municipality shall be the amount (not  
12 including credit memoranda) collected hereunder during the  
13 second preceding calendar month by the Department, and not  
14 including an amount equal to the amount of refunds made during  
15 the second preceding calendar month by the Department on behalf  
16 of such municipality, less 1.6% of such balance, which sum  
17 shall be retained by the State Treasurer to cover the costs  
18 incurred by the Department in administering and enforcing this  
19 Section as provided herein. The Department at the time of each  
20 monthly disbursement to the municipalities shall prepare and  
21 certify to the Comptroller the amount, so retained by the State  
22 Treasurer, to be paid into the General Revenue Fund of the  
23 State Treasury. Within 10 days after receipt, by the  
24 Comptroller, of the disbursement certification to the  
25 municipalities and the General Revenue Fund, provided for in  
26 this Section to be given to the Comptroller by the Department,

1 the Comptroller shall cause the orders to be drawn for the  
2 respective amounts in accordance with the directions contained  
3 in such certification.

4 Nothing in this Section shall be construed to authorize a  
5 municipality to impose a tax upon the privilege of engaging in  
6 any business which under the Constitution of the United States  
7 may not be made the subject of taxation by this State.

8 An ordinance or resolution imposing a tax hereunder or  
9 effecting a change in the rate thereof shall be effective on  
10 the first day of the calendar month next following publication  
11 as provided in Section 1-2-4. The corporate authorities of any  
12 municipality which levies a tax authorized by this Section  
13 shall transmit to the Department of Revenue on or not later  
14 than 5 days after publication a certified copy of the ordinance  
15 or resolution imposing such tax whereupon the Department of  
16 Revenue shall proceed to administer and enforce this Section on  
17 behalf of such municipality as of the effective date of the  
18 ordinance or resolution. Upon a change in rate of a tax levied  
19 hereunder, or upon the discontinuance of the tax, the corporate  
20 authorities of the municipality shall on or not later than 5  
21 days after publication of the ordinance or resolution  
22 discontinuing the tax or effecting a change in rate transmit to  
23 the Department of Revenue a certified copy of the ordinance or  
24 resolution effecting such change or discontinuance.

25 The Department of Revenue must upon the request of the  
26 municipal clerk, city council or village board of trustees

1 submit to a city, village or incorporated town a list of those  
2 persons who are registered with the Department to pay  
3 automobile renting occupation tax within that governmental  
4 unit. This list shall contain only the names of persons who  
5 have paid the tax and not the amount of tax paid by such  
6 person.

7 As used in this Section, "municipal" and "municipality"  
8 means a city, village or incorporated town, including an  
9 incorporated town which has superseded a civil township.

10 This Section shall be known and may be cited as the  
11 "Municipal Automobile Renting Occupation Tax Act".

12 (Source: 10000SB2641ham003.)

13 Section 30. If and only if Senate Bill 2641 of the 100th  
14 General Assembly, as amended by House Amendment No. 3, becomes  
15 law, then the Illinois Vehicle Code is amended by changing  
16 Sections 11-208.6, 11-208.8, 11-208.9, and 11-1201.1 as  
17 follows:

18 (625 ILCS 5/11-208.6)

19 Sec. 11-208.6. Automated traffic law enforcement system.

20 (a) As used in this Section, "automated traffic law  
21 enforcement system" means a device with one or more motor  
22 vehicle sensors working in conjunction with a red light signal  
23 to produce recorded images of motor vehicles entering an  
24 intersection against a red signal indication in violation of

1 Section 11-306 of this Code or a similar provision of a local  
2 ordinance.

3 An automated traffic law enforcement system is a system, in  
4 a municipality or county operated by a governmental agency,  
5 that produces a recorded image of a motor vehicle's violation  
6 of a provision of this Code or a local ordinance and is  
7 designed to obtain a clear recorded image of the vehicle and  
8 the vehicle's license plate. The recorded image must also  
9 display the time, date, and location of the violation.

10 (b) As used in this Section, "recorded images" means images  
11 recorded by an automated traffic law enforcement system on:

12 (1) 2 or more photographs;

13 (2) 2 or more microphotographs;

14 (3) 2 or more electronic images; or

15 (4) a video recording showing the motor vehicle and, on  
16 at least one image or portion of the recording, clearly  
17 identifying the registration plate number of the motor  
18 vehicle.

19 (b-5) A municipality or county that produces a recorded  
20 image of a motor vehicle's violation of a provision of this  
21 Code or a local ordinance must make the recorded images of a  
22 violation accessible to the alleged violator by providing the  
23 alleged violator with a website address, accessible through the  
24 Internet.

25 (c) Except as provided under Section 11-208.8 of this Code,  
26 a county or municipality, including a home rule county or

1 municipality, may not use an automated traffic law enforcement  
2 system to provide recorded images of a motor vehicle for the  
3 purpose of recording its speed. Except as provided under  
4 Section 11-208.8 of this Code, the regulation of the use of  
5 automated traffic law enforcement systems to record vehicle  
6 speeds is an exclusive power and function of the State. This  
7 subsection (c) is a denial and limitation of home rule powers  
8 and functions under subsection (h) of Section 6 of Article VII  
9 of the Illinois Constitution.

10 (c-5) A county or municipality, including a home rule  
11 county or municipality, may not use an automated traffic law  
12 enforcement system to issue violations in instances where the  
13 motor vehicle comes to a complete stop and does not enter the  
14 intersection, as defined by Section 1-132 of this Code, during  
15 the cycle of the red signal indication unless one or more  
16 pedestrians or bicyclists are present, even if the motor  
17 vehicle stops at a point past a stop line or crosswalk where a  
18 driver is required to stop, as specified in subsection (c) of  
19 Section 11-306 of this Code or a similar provision of a local  
20 ordinance.

21 (c-6) A county, or a municipality with less than 2,000,000  
22 inhabitants, including a home rule county or municipality, may  
23 not use an automated traffic law enforcement system to issue  
24 violations in instances where a motorcyclist enters an  
25 intersection against a red signal indication when the red  
26 signal fails to change to a green signal within a reasonable

1 period of time not less than 120 seconds because of a signal  
2 malfunction or because the signal has failed to detect the  
3 arrival of the motorcycle due to the motorcycle's size or  
4 weight.

5 (d) For each violation of a provision of this Code or a  
6 local ordinance recorded by an automatic traffic law  
7 enforcement system, the county or municipality having  
8 jurisdiction shall issue a written notice of the violation to  
9 the registered owner of the vehicle as the alleged violator.  
10 The notice shall be delivered to the registered owner of the  
11 vehicle, by mail, within 30 days after the Secretary of State  
12 notifies the municipality or county of the identity of the  
13 owner of the vehicle, but in no event later than 90 days after  
14 the violation.

15 The notice shall include:

16 (1) the name and address of the registered owner of the  
17 vehicle;

18 (2) the registration number of the motor vehicle  
19 involved in the violation;

20 (3) the violation charged;

21 (4) the location where the violation occurred;

22 (5) the date and time of the violation;

23 (6) a copy of the recorded images;

24 (7) the amount of the civil penalty imposed and the  
25 requirements of any traffic education program imposed and  
26 the date by which the civil penalty should be paid and the



1 traffic education program should be completed;

2 (8) a statement that recorded images are evidence of a  
3 violation of a red light signal;

4 (9) a warning that failure to pay the civil penalty, to  
5 complete a required traffic education program, or to  
6 contest liability in a timely manner is an admission of  
7 liability and may result in a suspension of the driving  
8 privileges of the registered owner of the vehicle;

9 (10) a statement that the person may elect to proceed  
10 by:

11 (A) paying the fine, completing a required traffic  
12 education program, or both; or

13 (B) challenging the charge in court, by mail, or by  
14 administrative hearing; and

15 (11) a website address, accessible through the  
16 Internet, where the person may view the recorded images of  
17 the violation.

18 (e) If a person charged with a traffic violation, as a  
19 result of an automated traffic law enforcement system, does not  
20 pay the fine or complete a required traffic education program,  
21 or both, or successfully contest the civil penalty resulting  
22 from that violation, the Secretary of State shall suspend the  
23 driving privileges of the registered owner of the vehicle under  
24 Section 6-306.5 of this Code for failing to complete a required  
25 traffic education program or to pay any fine or penalty due and  
26 owing, or both, as a result of a combination of 5 violations of

1 the automated traffic law enforcement system or the automated  
2 speed enforcement system under Section 11-208.8 of this Code.

3 (f) Based on inspection of recorded images produced by an  
4 automated traffic law enforcement system, a notice alleging  
5 that the violation occurred shall be evidence of the facts  
6 contained in the notice and admissible in any proceeding  
7 alleging a violation under this Section.

8 (g) Recorded images made by an automatic traffic law  
9 enforcement system are confidential and shall be made available  
10 only to the alleged violator and governmental and law  
11 enforcement agencies for purposes of adjudicating a violation  
12 of this Section, for statistical purposes, or for other  
13 governmental purposes. Any recorded image evidencing a  
14 violation of this Section, however, may be admissible in any  
15 proceeding resulting from the issuance of the citation.

16 (h) The court or hearing officer may consider in defense of  
17 a violation:

18 (1) that the motor vehicle or registration plates of  
19 the motor vehicle were stolen before the violation occurred  
20 and not under the control of or in the possession of the  
21 owner at the time of the violation;

22 (2) that the driver of the vehicle passed through the  
23 intersection when the light was red either (i) in order to  
24 yield the right-of-way to an emergency vehicle or (ii) as  
25 part of a funeral procession; and

26 (3) any other evidence or issues provided by municipal

1 or county ordinance.

2 (i) To demonstrate that the motor vehicle or the  
3 registration plates were stolen before the violation occurred  
4 and were not under the control or possession of the owner at  
5 the time of the violation, the owner must submit proof that a  
6 report concerning the stolen motor vehicle or registration  
7 plates was filed with a law enforcement agency in a timely  
8 manner.

9 (j) Unless the driver of the motor vehicle received a  
10 Uniform Traffic Citation from a police officer at the time of  
11 the violation, the motor vehicle owner is subject to a civil  
12 penalty not exceeding \$100 or the completion of a traffic  
13 education program, or both, plus an additional penalty of not  
14 more than \$100 for failure to pay the original penalty or to  
15 complete a required traffic education program, or both, in a  
16 timely manner, if the motor vehicle is recorded by an automated  
17 traffic law enforcement system. A violation for which a civil  
18 penalty is imposed under this Section is not a violation of a  
19 traffic regulation governing the movement of vehicles and may  
20 not be recorded on the driving record of the owner of the  
21 vehicle.

22 (j-3) A registered owner who is a holder of a valid  
23 commercial driver's license is not required to complete a  
24 traffic education program.

25 (j-5) For purposes of the required traffic education  
26 program only, a registered owner may submit an affidavit to the

1 court or hearing officer swearing that at the time of the  
2 alleged violation, the vehicle was in the custody and control  
3 of another person. The affidavit must identify the person in  
4 custody and control of the vehicle, including the person's name  
5 and current address. The person in custody and control of the  
6 vehicle at the time of the violation is required to complete  
7 the required traffic education program. If the person in  
8 custody and control of the vehicle at the time of the violation  
9 completes the required traffic education program, the  
10 registered owner of the vehicle is not required to complete a  
11 traffic education program.

12 (k) An intersection equipped with an automated traffic law  
13 enforcement system must be posted with a sign visible to  
14 approaching traffic indicating that the intersection is being  
15 monitored by an automated traffic law enforcement system.

16 (k-3) A municipality or county that has one or more  
17 intersections equipped with an automated traffic law  
18 enforcement system must provide notice to drivers by posting  
19 the locations of automated traffic law systems on the  
20 municipality or county website.

21 (k-5) An intersection equipped with an automated traffic  
22 law enforcement system must have a yellow change interval that  
23 conforms with the Illinois Manual on Uniform Traffic Control  
24 Devices (IMUTCD) published by the Illinois Department of  
25 Transportation.

26 (k-7) A municipality or county operating an automated

1 traffic law enforcement system shall conduct a statistical  
2 analysis to assess the safety impact of each automated traffic  
3 law enforcement system at an intersection following  
4 installation of the system. The statistical analysis shall be  
5 based upon the best available crash, traffic, and other data,  
6 and shall cover a period of time before and after installation  
7 of the system sufficient to provide a statistically valid  
8 comparison of safety impact. The statistical analysis shall be  
9 consistent with professional judgment and acceptable industry  
10 practice. The statistical analysis also shall be consistent  
11 with the data required for valid comparisons of before and  
12 after conditions and shall be conducted within a reasonable  
13 period following the installation of the automated traffic law  
14 enforcement system. The statistical analysis required by this  
15 subsection (k-7) shall be made available to the public and  
16 shall be published on the website of the municipality or  
17 county. If the statistical analysis for the 36 month period  
18 following installation of the system indicates that there has  
19 been an increase in the rate of accidents at the approach to  
20 the intersection monitored by the system, the municipality or  
21 county shall undertake additional studies to determine the  
22 cause and severity of the accidents, and may take any action  
23 that it determines is necessary or appropriate to reduce the  
24 number or severity of the accidents at that intersection.

25 (1) The compensation paid for an automated traffic law  
26 enforcement system must be based on the value of the equipment

1 or the services provided and may not be based on the number of  
2 traffic citations issued or the revenue generated by the  
3 system.

4 (m) This Section applies only to the counties of Cook,  
5 DuPage, Kane, Lake, Madison, McHenry, St. Clair, and Will and  
6 to municipalities located within those counties.

7 (n) The fee for participating in a traffic education  
8 program under this Section shall not exceed \$25.

9 A low-income individual required to complete a traffic  
10 education program under this Section who provides proof of  
11 eligibility for the federal earned income tax credit under  
12 Section 32 of the Internal Revenue Code or the Illinois earned  
13 income tax credit under Section 212 of the Illinois Income Tax  
14 Act shall not be required to pay any fee for participating in a  
15 required traffic education program.

16 (o) A municipality or county shall make a certified report  
17 to the Secretary of State pursuant to Section 6-306.5 of this  
18 Code whenever a registered owner of a vehicle has failed to pay  
19 any fine or penalty due and owing as a result of a combination  
20 of 5 offenses for automated traffic law or speed enforcement  
21 system violations.

22 (p) No person who is the lessor of a motor vehicle pursuant  
23 to a written lease agreement shall be liable for an automated  
24 speed or traffic law enforcement system violation involving  
25 such motor vehicle during the period of the lease; provided  
26 that upon the request of the appropriate authority received

1 within 120 days after the violation occurred, the lessor  
2 provides within 60 days after such receipt the name and address  
3 of the lessee. The drivers license number of a lessee may be  
4 subsequently individually requested by the appropriate  
5 authority if needed for enforcement of this Section.

6 Upon the provision of information by the lessor pursuant to  
7 this subsection, the county or municipality may issue the  
8 violation to the lessee of the vehicle in the same manner as it  
9 would issue a violation to a registered owner of a vehicle  
10 pursuant to this Section, and the lessee may be held liable for  
11 the violation.

12 (g) A citation issued under this Section that is dismissed  
13 with respect to the registered owner of a vehicle under  
14 subsection (e) of Section 30 of the Renter's Financial  
15 Responsibility and Protection Act may be issued and delivered  
16 by mail or other means to a car facilitation company identified  
17 in the registered owner's affidavit of non-liability.

18 (Source: P.A. 97-29, eff. 1-1-12; 97-627, eff. 1-1-12; 97-672,  
19 eff. 7-1-12; 97-762, eff. 7-6-12; 98-463, eff. 8-16-13.)

20 (625 ILCS 5/11-208.8)

21 Sec. 11-208.8. Automated speed enforcement systems in  
22 safety zones.

23 (a) As used in this Section:

24 "Automated speed enforcement system" means a photographic  
25 device, radar device, laser device, or other electrical or

1 mechanical device or devices installed or utilized in a safety  
2 zone and designed to record the speed of a vehicle and obtain a  
3 clear photograph or other recorded image of the vehicle and the  
4 vehicle's registration plate while the driver is violating  
5 Article VI of Chapter 11 of this Code or a similar provision of  
6 a local ordinance.

7 An automated speed enforcement system is a system, located  
8 in a safety zone which is under the jurisdiction of a  
9 municipality, that produces a recorded image of a motor  
10 vehicle's violation of a provision of this Code or a local  
11 ordinance and is designed to obtain a clear recorded image of  
12 the vehicle and the vehicle's license plate. The recorded image  
13 must also display the time, date, and location of the  
14 violation.

15 "Owner" means the person or entity to whom the vehicle is  
16 registered.

17 "Recorded image" means images recorded by an automated  
18 speed enforcement system on:

- 19 (1) 2 or more photographs;  
20 (2) 2 or more microphotographs;  
21 (3) 2 or more electronic images; or  
22 (4) a video recording showing the motor vehicle and, on  
23 at least one image or portion of the recording, clearly  
24 identifying the registration plate number of the motor  
25 vehicle.

26 "Safety zone" means an area that is within one-eighth of a



1 mile from the nearest property line of any public or private  
2 elementary or secondary school, or from the nearest property  
3 line of any facility, area, or land owned by a school district  
4 that is used for educational purposes approved by the Illinois  
5 State Board of Education, not including school district  
6 headquarters or administrative buildings. A safety zone also  
7 includes an area that is within one-eighth of a mile from the  
8 nearest property line of any facility, area, or land owned by a  
9 park district used for recreational purposes. However, if any  
10 portion of a roadway is within either one-eighth mile radius,  
11 the safety zone also shall include the roadway extended to the  
12 furthest portion of the next furthest intersection. The term  
13 "safety zone" does not include any portion of the roadway known  
14 as Lake Shore Drive or any controlled access highway with 8 or  
15 more lanes of traffic.

16 (a-5) The automated speed enforcement system shall be  
17 operational and violations shall be recorded only at the  
18 following times:

19 (i) if the safety zone is based upon the property line  
20 of any facility, area, or land owned by a school district,  
21 only on school days and no earlier than 6 a.m. and no later  
22 than 8:30 p.m. if the school day is during the period of  
23 Monday through Thursday, or 9 p.m. if the school day is a  
24 Friday; and

25 (ii) if the safety zone is based upon the property line  
26 of any facility, area, or land owned by a park district, no

1 earlier than one hour prior to the time that the facility,  
2 area, or land is open to the public or other patrons, and  
3 no later than one hour after the facility, area, or land is  
4 closed to the public or other patrons.

5 (b) A municipality that produces a recorded image of a  
6 motor vehicle's violation of a provision of this Code or a  
7 local ordinance must make the recorded images of a violation  
8 accessible to the alleged violator by providing the alleged  
9 violator with a website address, accessible through the  
10 Internet.

11 (c) Notwithstanding any penalties for any other violations  
12 of this Code, the owner of a motor vehicle used in a traffic  
13 violation recorded by an automated speed enforcement system  
14 shall be subject to the following penalties:

15 (1) if the recorded speed is no less than 6 miles per  
16 hour and no more than 10 miles per hour over the legal  
17 speed limit, a civil penalty not exceeding \$50, plus an  
18 additional penalty of not more than \$50 for failure to pay  
19 the original penalty in a timely manner; or

20 (2) if the recorded speed is more than 10 miles per  
21 hour over the legal speed limit, a civil penalty not  
22 exceeding \$100, plus an additional penalty of not more than  
23 \$100 for failure to pay the original penalty in a timely  
24 manner.

25 A penalty may not be imposed under this Section if the  
26 driver of the motor vehicle received a Uniform Traffic Citation

1 from a police officer for a speeding violation occurring within  
2 one-eighth of a mile and 15 minutes of the violation that was  
3 recorded by the system. A violation for which a civil penalty  
4 is imposed under this Section is not a violation of a traffic  
5 regulation governing the movement of vehicles and may not be  
6 recorded on the driving record of the owner of the vehicle. A  
7 law enforcement officer is not required to be present or to  
8 witness the violation. No penalty may be imposed under this  
9 Section if the recorded speed of a vehicle is 5 miles per hour  
10 or less over the legal speed limit. The municipality may send,  
11 in the same manner that notices are sent under this Section, a  
12 speed violation warning notice where the violation involves a  
13 speed of 5 miles per hour or less above the legal speed limit.

14 (d) The net proceeds that a municipality receives from  
15 civil penalties imposed under an automated speed enforcement  
16 system, after deducting all non-personnel and personnel costs  
17 associated with the operation and maintenance of such system,  
18 shall be expended or obligated by the municipality for the  
19 following purposes:

20 (i) public safety initiatives to ensure safe passage  
21 around schools, and to provide police protection and  
22 surveillance around schools and parks, including but not  
23 limited to: (1) personnel costs; and (2) non-personnel  
24 costs such as construction and maintenance of public safety  
25 infrastructure and equipment;

26 (ii) initiatives to improve pedestrian and traffic

1 safety;

2 (iii) construction and maintenance of infrastructure  
3 within the municipality, including but not limited to roads  
4 and bridges; and

5 (iv) after school programs.

6 (e) For each violation of a provision of this Code or a  
7 local ordinance recorded by an automated speed enforcement  
8 system, the municipality having jurisdiction shall issue a  
9 written notice of the violation to the registered owner of the  
10 vehicle as the alleged violator. The notice shall be delivered  
11 to the registered owner of the vehicle, by mail, within 30 days  
12 after the Secretary of State notifies the municipality of the  
13 identity of the owner of the vehicle, but in no event later  
14 than 90 days after the violation.

15 (f) The notice required under subsection (e) of this  
16 Section shall include:

17 (1) the name and address of the registered owner of the  
18 vehicle;

19 (2) the registration number of the motor vehicle  
20 involved in the violation;

21 (3) the violation charged;

22 (4) the date, time, and location where the violation  
23 occurred;

24 (5) a copy of the recorded image or images;

25 (6) the amount of the civil penalty imposed and the  
26 date by which the civil penalty should be paid;

1 (7) a statement that recorded images are evidence of a  
2 violation of a speed restriction;

3 (8) a warning that failure to pay the civil penalty or  
4 to contest liability in a timely manner is an admission of  
5 liability and may result in a suspension of the driving  
6 privileges of the registered owner of the vehicle;

7 (9) a statement that the person may elect to proceed  
8 by:

9 (A) paying the fine; or

10 (B) challenging the charge in court, by mail, or by  
11 administrative hearing; and

12 (10) a website address, accessible through the  
13 Internet, where the person may view the recorded images of  
14 the violation.

15 (g) If a person charged with a traffic violation, as a  
16 result of an automated speed enforcement system, does not pay  
17 the fine or successfully contest the civil penalty resulting  
18 from that violation, the Secretary of State shall suspend the  
19 driving privileges of the registered owner of the vehicle under  
20 Section 6-306.5 of this Code for failing to pay any fine or  
21 penalty due and owing, or both, as a result of a combination of  
22 5 violations of the automated speed enforcement system or the  
23 automated traffic law under Section 11-208.6 of this Code.

24 (h) Based on inspection of recorded images produced by an  
25 automated speed enforcement system, a notice alleging that the  
26 violation occurred shall be evidence of the facts contained in

1 the notice and admissible in any proceeding alleging a  
2 violation under this Section.

3 (i) Recorded images made by an automated speed enforcement  
4 system are confidential and shall be made available only to the  
5 alleged violator and governmental and law enforcement agencies  
6 for purposes of adjudicating a violation of this Section, for  
7 statistical purposes, or for other governmental purposes. Any  
8 recorded image evidencing a violation of this Section, however,  
9 may be admissible in any proceeding resulting from the issuance  
10 of the citation.

11 (j) The court or hearing officer may consider in defense of  
12 a violation:

13 (1) that the motor vehicle or registration plates of  
14 the motor vehicle were stolen before the violation occurred  
15 and not under the control or in the possession of the owner  
16 at the time of the violation;

17 (2) that the driver of the motor vehicle received a  
18 Uniform Traffic Citation from a police officer for a  
19 speeding violation occurring within one-eighth of a mile  
20 and 15 minutes of the violation that was recorded by the  
21 system; and

22 (3) any other evidence or issues provided by municipal  
23 ordinance.

24 (k) To demonstrate that the motor vehicle or the  
25 registration plates were stolen before the violation occurred  
26 and were not under the control or possession of the owner at

1 the time of the violation, the owner must submit proof that a  
2 report concerning the stolen motor vehicle or registration  
3 plates was filed with a law enforcement agency in a timely  
4 manner.

5 (l) A roadway equipped with an automated speed enforcement  
6 system shall be posted with a sign conforming to the national  
7 Manual on Uniform Traffic Control Devices that is visible to  
8 approaching traffic stating that vehicle speeds are being  
9 photo-enforced and indicating the speed limit. The  
10 municipality shall install such additional signage as it  
11 determines is necessary to give reasonable notice to drivers as  
12 to where automated speed enforcement systems are installed.

13 (m) A roadway where a new automated speed enforcement  
14 system is installed shall be posted with signs providing 30  
15 days notice of the use of a new automated speed enforcement  
16 system prior to the issuance of any citations through the  
17 automated speed enforcement system.

18 (n) The compensation paid for an automated speed  
19 enforcement system must be based on the value of the equipment  
20 or the services provided and may not be based on the number of  
21 traffic citations issued or the revenue generated by the  
22 system.

23 (o) A municipality shall make a certified report to the  
24 Secretary of State pursuant to Section 6-306.5 of this Code  
25 whenever a registered owner of a vehicle has failed to pay any  
26 fine or penalty due and owing as a result of a combination of 5

1 offenses for automated speed or traffic law enforcement system  
2 violations.

3 (p) No person who is the lessor of a motor vehicle pursuant  
4 to a written lease agreement shall be liable for an automated  
5 speed or traffic law enforcement system violation involving  
6 such motor vehicle during the period of the lease; provided  
7 that upon the request of the appropriate authority received  
8 within 120 days after the violation occurred, the lessor  
9 provides within 60 days after such receipt the name and address  
10 of the lessee. The drivers license number of a lessee may be  
11 subsequently individually requested by the appropriate  
12 authority if needed for enforcement of this Section.

13 Upon the provision of information by the lessor pursuant to  
14 this subsection, the municipality may issue the violation to  
15 the lessee of the vehicle in the same manner as it would issue  
16 a violation to a registered owner of a vehicle pursuant to this  
17 Section, and the lessee may be held liable for the violation.

18 (q) A municipality using an automated speed enforcement  
19 system must provide notice to drivers by publishing the  
20 locations of all safety zones where system equipment is  
21 installed on the website of the municipality.

22 (r) A municipality operating an automated speed  
23 enforcement system shall conduct a statistical analysis to  
24 assess the safety impact of the system. The statistical  
25 analysis shall be based upon the best available crash, traffic,  
26 and other data, and shall cover a period of time before and



1 after installation of the system sufficient to provide a  
2 statistically valid comparison of safety impact. The  
3 statistical analysis shall be consistent with professional  
4 judgment and acceptable industry practice. The statistical  
5 analysis also shall be consistent with the data required for  
6 valid comparisons of before and after conditions and shall be  
7 conducted within a reasonable period following the  
8 installation of the automated traffic law enforcement system.  
9 The statistical analysis required by this subsection shall be  
10 made available to the public and shall be published on the  
11 website of the municipality.

12 (s) This Section applies only to municipalities with a  
13 population of 1,000,000 or more inhabitants.

14 (t) A citation issued under this Section that is dismissed  
15 with respect to the registered owner of a vehicle under  
16 subsection (e) of Section 30 of the Renter's Financial  
17 Responsibility and Protection Act may be issued and delivered  
18 by mail or other means to a car facilitation company identified  
19 in the registered owner's affidavit of non-liability.

20 (Source: P.A. 97-672, eff. 7-1-12; 97-674, eff. 7-1-12; 98-463,  
21 eff. 8-16-13.)

22 (625 ILCS 5/11-208.9)

23 Sec. 11-208.9. Automated traffic law enforcement system;  
24 approaching, overtaking, and passing a school bus.

25 (a) As used in this Section, "automated traffic law

1 enforcement system" means a device with one or more motor  
2 vehicle sensors working in conjunction with the visual signals  
3 on a school bus, as specified in Sections 12-803 and 12-805 of  
4 this Code, to produce recorded images of motor vehicles that  
5 fail to stop before meeting or overtaking, from either  
6 direction, any school bus stopped at any location for the  
7 purpose of receiving or discharging pupils in violation of  
8 Section 11-1414 of this Code or a similar provision of a local  
9 ordinance.

10 An automated traffic law enforcement system is a system, in  
11 a municipality or county operated by a governmental agency,  
12 that produces a recorded image of a motor vehicle's violation  
13 of a provision of this Code or a local ordinance and is  
14 designed to obtain a clear recorded image of the vehicle and  
15 the vehicle's license plate. The recorded image must also  
16 display the time, date, and location of the violation.

17 (b) As used in this Section, "recorded images" means images  
18 recorded by an automated traffic law enforcement system on:

19 (1) 2 or more photographs;

20 (2) 2 or more microphotographs;

21 (3) 2 or more electronic images; or

22 (4) a video recording showing the motor vehicle and, on  
23 at least one image or portion of the recording, clearly  
24 identifying the registration plate number of the motor  
25 vehicle.

26 (c) A municipality or county that produces a recorded image

1 of a motor vehicle's violation of a provision of this Code or a  
2 local ordinance must make the recorded images of a violation  
3 accessible to the alleged violator by providing the alleged  
4 violator with a website address, accessible through the  
5 Internet.

6 (d) For each violation of a provision of this Code or a  
7 local ordinance recorded by an automated traffic law  
8 enforcement system, the county or municipality having  
9 jurisdiction shall issue a written notice of the violation to  
10 the registered owner of the vehicle as the alleged violator.  
11 The notice shall be delivered to the registered owner of the  
12 vehicle, by mail, within 30 days after the Secretary of State  
13 notifies the municipality or county of the identity of the  
14 owner of the vehicle, but in no event later than 90 days after  
15 the violation.

16 (e) The notice required under subsection (d) shall include:

17 (1) the name and address of the registered owner of the  
18 vehicle;

19 (2) the registration number of the motor vehicle  
20 involved in the violation;

21 (3) the violation charged;

22 (4) the location where the violation occurred;

23 (5) the date and time of the violation;

24 (6) a copy of the recorded images;

25 (7) the amount of the civil penalty imposed and the  
26 date by which the civil penalty should be paid;

1           (8) a statement that recorded images are evidence of a  
2 violation of overtaking or passing a school bus stopped for  
3 the purpose of receiving or discharging pupils;

4           (9) a warning that failure to pay the civil penalty or  
5 to contest liability in a timely manner is an admission of  
6 liability and may result in a suspension of the driving  
7 privileges of the registered owner of the vehicle;

8           (10) a statement that the person may elect to proceed  
9 by:

10                   (A) paying the fine; or

11                   (B) challenging the charge in court, by mail, or by  
12 administrative hearing; and

13           (11) a website address, accessible through the  
14 Internet, where the person may view the recorded images of  
15 the violation.

16           (f) If a person charged with a traffic violation, as a  
17 result of an automated traffic law enforcement system under  
18 this Section, does not pay the fine or successfully contest the  
19 civil penalty resulting from that violation, the Secretary of  
20 State shall suspend the driving privileges of the registered  
21 owner of the vehicle under Section 6-306.5 of this Code for  
22 failing to pay any fine or penalty due and owing as a result of  
23 a combination of 5 violations of the automated traffic law  
24 enforcement system or the automated speed enforcement system  
25 under Section 11-208.8 of this Code.

26           (g) Based on inspection of recorded images produced by an

1 automated traffic law enforcement system, a notice alleging  
2 that the violation occurred shall be evidence of the facts  
3 contained in the notice and admissible in any proceeding  
4 alleging a violation under this Section.

5 (h) Recorded images made by an automated traffic law  
6 enforcement system are confidential and shall be made available  
7 only to the alleged violator and governmental and law  
8 enforcement agencies for purposes of adjudicating a violation  
9 of this Section, for statistical purposes, or for other  
10 governmental purposes. Any recorded image evidencing a  
11 violation of this Section, however, may be admissible in any  
12 proceeding resulting from the issuance of the citation.

13 (i) The court or hearing officer may consider in defense of  
14 a violation:

15 (1) that the motor vehicle or registration plates of  
16 the motor vehicle were stolen before the violation occurred  
17 and not under the control of or in the possession of the  
18 owner at the time of the violation;

19 (2) that the driver of the motor vehicle received a  
20 Uniform Traffic Citation from a police officer for a  
21 violation of Section 11-1414 of this Code within one-eighth  
22 of a mile and 15 minutes of the violation that was recorded  
23 by the system;

24 (3) that the visual signals required by Sections 12-803  
25 and 12-805 of this Code were damaged, not activated, not  
26 present in violation of Sections 12-803 and 12-805, or

1           inoperable; and

2                   (4) any other evidence or issues provided by municipal  
3           or county ordinance.

4           (j) To demonstrate that the motor vehicle or the  
5           registration plates were stolen before the violation occurred  
6           and were not under the control or possession of the owner at  
7           the time of the violation, the owner must submit proof that a  
8           report concerning the stolen motor vehicle or registration  
9           plates was filed with a law enforcement agency in a timely  
10          manner.

11          (k) Unless the driver of the motor vehicle received a  
12          Uniform Traffic Citation from a police officer at the time of  
13          the violation, the motor vehicle owner is subject to a civil  
14          penalty not exceeding \$150 for a first time violation or \$500  
15          for a second or subsequent violation, plus an additional  
16          penalty of not more than \$100 for failure to pay the original  
17          penalty in a timely manner, if the motor vehicle is recorded by  
18          an automated traffic law enforcement system. A violation for  
19          which a civil penalty is imposed under this Section is not a  
20          violation of a traffic regulation governing the movement of  
21          vehicles and may not be recorded on the driving record of the  
22          owner of the vehicle, but may be recorded by the municipality  
23          or county for the purpose of determining if a person is subject  
24          to the higher fine for a second or subsequent offense.

25          (l) A school bus equipped with an automated traffic law  
26          enforcement system must be posted with a sign indicating that

1 the school bus is being monitored by an automated traffic law  
2 enforcement system.

3 (m) A municipality or county that has one or more school  
4 buses equipped with an automated traffic law enforcement system  
5 must provide notice to drivers by posting a list of school  
6 districts using school buses equipped with an automated traffic  
7 law enforcement system on the municipality or county website.  
8 School districts that have one or more school buses equipped  
9 with an automated traffic law enforcement system must provide  
10 notice to drivers by posting that information on their  
11 websites.

12 (n) A municipality or county operating an automated traffic  
13 law enforcement system shall conduct a statistical analysis to  
14 assess the safety impact in each school district using school  
15 buses equipped with an automated traffic law enforcement system  
16 following installation of the system. The statistical analysis  
17 shall be based upon the best available crash, traffic, and  
18 other data, and shall cover a period of time before and after  
19 installation of the system sufficient to provide a  
20 statistically valid comparison of safety impact. The  
21 statistical analysis shall be consistent with professional  
22 judgment and acceptable industry practice. The statistical  
23 analysis also shall be consistent with the data required for  
24 valid comparisons of before and after conditions and shall be  
25 conducted within a reasonable period following the  
26 installation of the automated traffic law enforcement system.

1 The statistical analysis required by this subsection shall be  
2 made available to the public and shall be published on the  
3 website of the municipality or county. If the statistical  
4 analysis for the 36-month period following installation of the  
5 system indicates that there has been an increase in the rate of  
6 accidents at the approach to school buses monitored by the  
7 system, the municipality or county shall undertake additional  
8 studies to determine the cause and severity of the accidents,  
9 and may take any action that it determines is necessary or  
10 appropriate to reduce the number or severity of the accidents  
11 involving school buses equipped with an automated traffic law  
12 enforcement system.

13 (o) The compensation paid for an automated traffic law  
14 enforcement system must be based on the value of the equipment  
15 or the services provided and may not be based on the number of  
16 traffic citations issued or the revenue generated by the  
17 system.

18 (p) No person who is the lessor of a motor vehicle pursuant  
19 to a written lease agreement shall be liable for an automated  
20 speed or traffic law enforcement system violation involving  
21 such motor vehicle during the period of the lease; provided  
22 that upon the request of the appropriate authority received  
23 within 120 days after the violation occurred, the lessor  
24 provides within 60 days after such receipt the name and address  
25 of the lessee. The drivers license number of a lessee may be  
26 subsequently individually requested by the appropriate



1 authority if needed for enforcement of this Section.

2 Upon the provision of information by the lessor pursuant to  
3 this subsection, the county or municipality may issue the  
4 violation to the lessee of the vehicle in the same manner as it  
5 would issue a violation to a registered owner of a vehicle  
6 pursuant to this Section, and the lessee may be held liable for  
7 the violation.

8 (q) A municipality or county shall make a certified report  
9 to the Secretary of State pursuant to Section 6-306.5 of this  
10 Code whenever a registered owner of a vehicle has failed to pay  
11 any fine or penalty due and owing as a result of a combination  
12 of 5 offenses for automated traffic law or speed enforcement  
13 system violations.

14 (r) After a municipality or county enacts an ordinance  
15 providing for automated traffic law enforcement systems under  
16 this Section, each school district within that municipality or  
17 county's jurisdiction may implement an automated traffic law  
18 enforcement system under this Section. The elected school board  
19 for that district must approve the implementation of an  
20 automated traffic law enforcement system. The school district  
21 shall be responsible for entering into a contract, approved by  
22 the elected school board of that district, with vendors for the  
23 installation, maintenance, and operation of the automated  
24 traffic law enforcement system. The school district must enter  
25 into an intergovernmental agreement, approved by the elected  
26 school board of that district, with the municipality or county

1 with jurisdiction over that school district for the  
2 administration of the automated traffic law enforcement  
3 system. The proceeds from a school district's automated traffic  
4 law enforcement system's fines shall be divided equally between  
5 the school district and the municipality or county  
6 administering the automated traffic law enforcement system.

7 (s) A citation issued under this Section that is dismissed  
8 with respect to the registered owner of a vehicle under  
9 subsection (e) of Section 30 of the Renter's Financial  
10 Responsibility and Protection Act may be issued and delivered  
11 by mail or other means to a car facilitation company identified  
12 in the registered owner's affidavit of non-liability.

13 (Source: P.A. 98-556, eff. 1-1-14.)

14 (625 ILCS 5/11-1201.1)

15 Sec. 11-1201.1. Automated Railroad Crossing Enforcement  
16 System.

17 (a) For the purposes of this Section, an automated railroad  
18 grade crossing enforcement system is a system in a municipality  
19 or county operated by a governmental agency that produces a  
20 recorded image of a motor vehicle's violation of a provision of  
21 this Code or local ordinance and is designed to obtain a clear  
22 recorded image of the vehicle and vehicle's license plate. The  
23 recorded image must also display the time, date, and location  
24 of the violation.

25 As used in this Section, "recorded images" means images

1 recorded by an automated railroad grade crossing enforcement  
2 system on:

3 (1) 2 or more photographs;

4 (2) 2 or more microphotographs;

5 (3) 2 or more electronic images; or

6 (4) a video recording showing the motor vehicle and, on  
7 at least one image or portion of the recording, clearly  
8 identifying the registration plate number of the motor  
9 vehicle.

10 (b) The Illinois Commerce Commission may, in cooperation  
11 with a local law enforcement agency, establish in any county or  
12 municipality an automated railroad grade crossing enforcement  
13 system at any railroad grade crossing equipped with a crossing  
14 gate designated by local authorities. Local authorities  
15 desiring the establishment of an automated railroad crossing  
16 enforcement system must initiate the process by enacting a  
17 local ordinance requesting the creation of such a system. After  
18 the ordinance has been enacted, and before any additional steps  
19 toward the establishment of the system are undertaken, the  
20 local authorities and the Commission must agree to a plan for  
21 obtaining, from any combination of federal, State, and local  
22 funding sources, the moneys required for the purchase and  
23 installation of any necessary equipment.

24 (b-1) (Blank.)

25 (c) For each violation of Section 11-1201 of this Code or a  
26 local ordinance recorded by an automated railroad grade

1 crossing enforcement system, the county or municipality having  
2 jurisdiction shall issue a written notice of the violation to  
3 the registered owner of the vehicle as the alleged violator.  
4 The notice shall be delivered to the registered owner of the  
5 vehicle, by mail, no later than 90 days after the violation.

6 The notice shall include:

7 (1) the name and address of the registered owner of the  
8 vehicle;

9 (2) the registration number of the motor vehicle  
10 involved in the violation;

11 (3) the violation charged;

12 (4) the location where the violation occurred;

13 (5) the date and time of the violation;

14 (6) a copy of the recorded images;

15 (7) the amount of the civil penalty imposed and the  
16 date by which the civil penalty should be paid;

17 (8) a statement that recorded images are evidence of a  
18 violation of a railroad grade crossing;

19 (9) a warning that failure to pay the civil penalty or  
20 to contest liability in a timely manner is an admission of  
21 liability and may result in a suspension of the driving  
22 privileges of the registered owner of the vehicle; and

23 (10) a statement that the person may elect to proceed  
24 by:

25 (A) paying the fine; or

26 (B) challenging the charge in court, by mail, or by

1 administrative hearing.

2 (d) If a person charged with a traffic violation, as a  
3 result of an automated railroad grade crossing enforcement  
4 system, does not pay or successfully contest the civil penalty  
5 resulting from that violation, the Secretary of State shall  
6 suspend the driving privileges of the registered owner of the  
7 vehicle under Section 6-306.5 of this Code for failing to pay  
8 any fine or penalty due and owing as a result of 5 violations  
9 of the automated railroad grade crossing enforcement system.

10 (d-1) (Blank.)

11 (d-2) (Blank.)

12 (e) Based on inspection of recorded images produced by an  
13 automated railroad grade crossing enforcement system, a notice  
14 alleging that the violation occurred shall be evidence of the  
15 facts contained in the notice and admissible in any proceeding  
16 alleging a violation under this Section.

17 (e-1) Recorded images made by an automated railroad grade  
18 crossing enforcement system are confidential and shall be made  
19 available only to the alleged violator and governmental and law  
20 enforcement agencies for purposes of adjudicating a violation  
21 of this Section, for statistical purposes, or for other  
22 governmental purposes. Any recorded image evidencing a  
23 violation of this Section, however, may be admissible in any  
24 proceeding resulting from the issuance of the citation.

25 (e-2) The court or hearing officer may consider the  
26 following in the defense of a violation:

1           (1) that the motor vehicle or registration plates of  
2           the motor vehicle were stolen before the violation occurred  
3           and not under the control of or in the possession of the  
4           owner at the time of the violation;

5           (2) that the driver of the motor vehicle received a  
6           Uniform Traffic Citation from a police officer at the time  
7           of the violation for the same offense;

8           (3) any other evidence or issues provided by municipal  
9           or county ordinance.

10          (e-3) To demonstrate that the motor vehicle or the  
11          registration plates were stolen before the violation occurred  
12          and were not under the control or possession of the owner at  
13          the time of the violation, the owner must submit proof that a  
14          report concerning the stolen motor vehicle or registration  
15          plates was filed with a law enforcement agency in a timely  
16          manner.

17          (f) Rail crossings equipped with an automatic railroad  
18          grade crossing enforcement system shall be posted with a sign  
19          visible to approaching traffic stating that the railroad grade  
20          crossing is being monitored, that citations will be issued, and  
21          the amount of the fine for violation.

22          (g) The compensation paid for an automated railroad grade  
23          crossing enforcement system must be based on the value of the  
24          equipment or the services provided and may not be based on the  
25          number of citations issued or the revenue generated by the  
26          system.

1 (h) (Blank.)

2 (i) If any part or parts of this Section are held by a  
3 court of competent jurisdiction to be unconstitutional, the  
4 unconstitutionality shall not affect the validity of the  
5 remaining parts of this Section. The General Assembly hereby  
6 declares that it would have passed the remaining parts of this  
7 Section if it had known that the other part or parts of this  
8 Section would be declared unconstitutional.

9 (j) Penalty. A civil fine of \$250 shall be imposed for a  
10 first violation of this Section, and a civil fine of \$500 shall  
11 be imposed for a second or subsequent violation of this  
12 Section.

13 (k) A citation issued under this Section that is dismissed  
14 with respect to the registered owner of a vehicle under  
15 subsection (e) of Section 30 of the Renter's Financial  
16 Responsibility and Protection Act may be issued and delivered  
17 by mail or other means to a car facilitation company identified  
18 in the registered owner's affidavit of non-liability.

19 (Source: P.A. 96-478, eff. 1-1-10.)

20 Section 35. If and only if Senate Bill 2641 of the 100th  
21 General Assembly, as amended by House Amendment No. 3, becomes  
22 law, then the Automated Traffic Control Systems in Highway  
23 Construction or Maintenance Zones Act is amended by changing  
24 Section 45 as follows:

1 (625 ILCS 7/45)

2 Sec. 45. Vehicle rental or leasing company's  
3 identification of a renter or lessee.

4 (a) A Uniform Traffic Citation issued under this Act to a  
5 motor vehicle rental or leasing company shall be dismissed with  
6 respect to the rental or leasing company if:

7 (1) the company responds to the Uniform Traffic  
8 Citation by submitting, within 30 days of the mailing of  
9 the citation, an affidavit of non-liability stating that,  
10 at the time of the alleged speeding or other traffic  
11 violation, the vehicle was in the custody and control of a  
12 renter or lessee under the terms of a rental agreement or  
13 lease; and

14 (2) the company provides the driver's license number,  
15 name, and address of the renter or lessee.

16 (a-5) A Uniform Traffic Citation issued under this Act to  
17 the registered owner of a vehicle used in a car facilitation  
18 transaction, as defined in Section 1-110.06 of the Illinois  
19 Vehicle Code, shall be dismissed with respect to the registered  
20 owner if:

21 (1) the registered owner responds to the Uniform  
22 Traffic Citation by submitting, within 30 days of the  
23 mailing of the citation, an affidavit of non-liability  
24 stating that, at the time of the alleged speeding or other  
25 traffic violation, the vehicle was under the operation and  
26 control of a person other than the vehicle's registered



1 owner under a car facilitation transaction facilitated by a  
2 car facilitation company; and

3 (2) the registered owner provides proof of the  
4 transaction facilitated by the car facilitation company  
5 between the registered owner of the vehicle and the driver  
6 of the vehicle during the alleged violation.

7 (b) A Uniform Traffic Citation dismissed with respect to a  
8 motor vehicle rental or leasing company in accordance with  
9 subsection (a) may then be issued and delivered by mail or  
10 other means to the renter or lessee identified in the affidavit  
11 of non-liability.

12 (c) A Uniform Traffic Citation that is dismissed with  
13 respect to the registered owner of a vehicle under subsection  
14 (a-5) may be issued and delivered by mail or other means to the  
15 car facilitation company identified in the registered owner's  
16 affidavit of non-liability.

17 (Source: 10000SB2641ham003.)

18 Section 40. If and only if Senate Bill 2641 of the 100th  
19 General Assembly, as amended by House Amendment No. 3, becomes  
20 law, then the Renter's Financial Responsibility and Protection  
21 Act is amended by changing Section 30 as follows:

22 (625 ILCS 27/30)

23 Sec. 30. Car facilitation company obligations and  
24 liability.

1 (a) Notwithstanding any provision to the contrary, a rental  
2 company that is a car facilitation company shall, when  
3 applicable, be subject to the statutory and regulatory  
4 obligations pertaining to all motor vehicle rental companies.

5 (b) If any loss or injury occurs at any time a vehicle is  
6 under the operation and control of a person other than the  
7 vehicle's registered owner under a car facilitation  
8 transaction facilitated by a car facilitation company, the  
9 company shall assume all liability of the registered owner of  
10 the vehicle used in the car facilitation transaction and shall  
11 be considered the vehicle's owner for all purposes.

12 (c) A car facilitation company continues to be liable under  
13 subsection (b) of this Section until the vehicle is returned to  
14 a location designated by the company, and one of the following  
15 occur:

16 (1) the expiration of the car facilitation period  
17 established for the vehicle occurs;

18 (2) the intent to terminate the vehicle's car  
19 facilitation transaction is verifiably communicated to the  
20 company; or

21 (3) the vehicle's registered owner takes possession  
22 and control of the vehicle.

23 If any loss giving rise to a claim occurs, the car  
24 facilitation company shall initially assume liability for a  
25 claim in which a dispute exists as to who was in control of the  
26 vehicle and seek indemnification if it is later determined that

1 the registered owner was in possession of the vehicle.

2 (d) At no time shall the registered owner of the vehicle or  
3 the owner's insurer be held liable for any loss, injury,  
4 damage, or violation involving his or her vehicle occurring  
5 during a car facilitation transaction unless it is shown that  
6 the registered owner was operating or in control of the vehicle  
7 at the time of the loss, injury, damage, or violation.

8 (e) Notwithstanding any provision to the contrary, for the  
9 purpose of the issuance of a civil penalty for a violation of  
10 Section 11-208.6, 11-208.8, 11-208.9, or 11-1201.1 of the  
11 Illinois Vehicle Code, the violation shall be dismissed with  
12 respect to the registered owner of the vehicle, and the car  
13 facilitation company shall be considered the vehicle's owner  
14 for purposes of violation, if:

15 (1) the registered owner responds to the citation by  
16 submitting, within 30 days of the mailing of the citation,  
17 an affidavit of non-liability stating that, at the time of  
18 the alleged violation, the vehicle was under the operation  
19 and control of a person other than the vehicle's registered  
20 owner under a car facilitation transaction facilitated by a  
21 car facilitation company; and

22 (2) the registered owner provides proof of the  
23 transaction facilitated by the car facilitation company  
24 with the driver of his or her vehicle during the alleged  
25 violation.

26 (f) Nothing in this Section shall limit the liability of

1 the car facilitation company for any acts or omissions by the  
2 company that result in injury to any persons as a result of the  
3 use or operation of a vehicle during a car facilitation  
4 transaction.

5 (g) For the purpose of the allocation of liability for a  
6 private passenger vehicle used in relation to a motor vehicle  
7 rental company that is a car facilitation company, as defined  
8 in Section 1-110.05 of the Illinois Vehicle Code, the car  
9 facilitation company shall assume liability if any damaged to  
10 the vehicle occurs:

11 (1) at any time when the vehicle is not in possession  
12 of the vehicle's registered owner and at the car  
13 facilitation company's designated location or other  
14 location designated for the car facilitation transaction  
15 while being made available to rent;

16 (2) under the operation and control of a person other  
17 than the vehicle's registered owner under a car  
18 facilitation transaction facilitated by that company; or

19 (3) at the car facilitation company's designated area  
20 or other location designated for the car facilitation  
21 transaction not being made available to rent, but not yet  
22 in the possession of the vehicle's registered owner.

23 Nothing in this subsection (g) prevents a car facilitation  
24 company from holding a renter in a car facilitation transaction  
25 liable to the extent permitted under this Section.

26 A car facilitation company continues to be liable under

1 this subsection (g) until the end of the car facilitation  
2 transaction as described in subsection (c) of this Section or  
3 as described in this subsection (g). At no time shall the  
4 registered owner of the vehicle or the owner's insurer be  
5 liable for any exposure, including negligent entrustment, of  
6 the vehicle involved in a car facilitation transaction.

7 Except as otherwise provided in this Section or in Section  
8 45 of the Automated Traffic Control Systems in Highway  
9 Construction or Maintenance Zones Act, nothing in this  
10 subsection shall be construed to relieve the registered owner  
11 of the vehicle from any liability imposed by any ordinance or  
12 resolution of a unit of local government.

13 (h) Notwithstanding any other law and unless otherwise  
14 excluded, an insurer may exclude any and all coverage and the  
15 duty to defend or indemnify for any claim made under a car  
16 facilitation transaction.

17 (i) An insurer that defends or indemnifies a claim against  
18 its insured that is determined to be excluded under the terms  
19 of its policy shall have the right to seek contribution against  
20 the insurer of the car facilitation company, if the claim is:

21 (1) made against the registered owner of the vehicle or  
22 renter in the car facilitation transaction for loss or  
23 injury that occurs during the car facilitation  
24 transaction; and

25 (2) excluded under the terms of the insurer's policy.

26 (j) Nothing in this Section invalidates or limits an

1 exclusion contained in an insurance ~~insurers~~ policy for any  
2 coverage included in the policy.

3 (k) An insurer may deny issuance of, cancel, void,  
4 terminate, rescind, or deny renewal of an insurance policy  
5 covering a motor vehicle that has been made available for a car  
6 facilitation transaction if the applicant or policyholder of  
7 the insurance policy fails to provide complete and accurate  
8 information about the use of a motor vehicle through a car  
9 facilitation transaction as requested by the insurer during the  
10 application or renewal process of the insurance policy.

11 (l) Nothing in this Section requires any insurance policy  
12 to:

13 (1) provide primary or excess coverage during the car  
14 facilitation transaction;

15 (2) imply that any insurance policy provides coverage  
16 for a motor vehicle during the car facilitation  
17 transaction; or

18 (3) preclude an insurer from providing coverage for a  
19 vehicle while the vehicle is made available or used through  
20 a car facilitation transaction if the insurer elects to do  
21 so by contract or endorsement.

22 (m) The car facilitation company shall collect and verify  
23 records pertaining to the use of a vehicle, including, but not  
24 limited to, times used, fees paid by the rentor, and revenues  
25 received by the vehicle owner, and provide that information  
26 upon request to the registered owner of the vehicle, the

1 owner's insurer, or and the insurer of a person operating the  
2 vehicle during the car facilitation transaction when a claim  
3 has been made against an insured involving a dispute as to  
4 whether the insurer's policy of the registered owner of the  
5 vehicle or the person operating the vehicle and shall retain  
6 the records for a reasonable period after the expiration of the  
7 applicable personal injury statute of limitations.

8 (n) The car facilitation company shall have sole  
9 responsibility for any equipment, such as a GPS system or other  
10 special equipment, that is put in or on the vehicle to monitor  
11 or facilitate the transaction, and shall agree to indemnify and  
12 hold harmless the vehicle owner for any damage to or theft of  
13 such equipment.

14 (o) The car facilitation company shall:

15 (1) verify that the registered vehicle does not have  
16 any safety recalls on the vehicle for which the repairs  
17 have not been made; and

18 (2) notify the owner of the registered vehicle of the  
19 requirements under subsection (p) of this Section.

20 (p) If the registered owner of the vehicle has received an  
21 actual notice of a safety recall on the motor vehicle, the  
22 registered owner of the vehicle may not make the motor vehicle  
23 available through the car facilitation company until the safety  
24 recall repair has been made.

25 If a registered owner of a vehicle receives an actual  
26 notice of a safety recall on a registered vehicle while the

1 registered vehicle is made available or in use through the car  
2 facilitation company, the registered owner of the vehicle shall  
3 remove the shared motor vehicle from participation as soon as  
4 practicably possible, but no later than 72 hours after  
5 receiving the notice of the safety recall and shall not allow  
6 the vehicle to be used in a car facilitation transaction until  
7 the safety recall repair has been made.

8 (g) A citation for a violation of Section 11-208.6,  
9 11-208.8, 11-208.9, or 11-1201.1 of the Illinois Vehicle Code  
10 that is dismissed with respect to the registered owner of a  
11 vehicle under subsection (e) of this Section may be issued and  
12 delivered by mail or other means to the car facilitation  
13 company identified in the registered owner's affidavit of  
14 non-liability.

15 (Source: 10000SB2641ham003.)

16 Section 99. Effective date. This Act takes effect January  
17 1, 2019."