

1 AMENDMENT TO HOUSE BILL 43

2 AMENDMENT NO. _____. Amend House Bill 43 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Physical Fitness Facility Medical Emergency Preparedness Act.

6 Section 5. Definitions. In this Act, words and phrases
7 have the meanings set forth in the following Sections.

8 Section 5.5. Automated external defibrillator.
9 "Automated external defibrillator" or "AED" means an
10 automated external defibrillator as defined in the Automated
11 External Defibrillator Act.

12 Section 5.10. Department. "Department" means the
13 Department of Public Health.

14 Section 5.15. Director. "Director" means the Director of
15 Public Health.

16 Section 5.20. Medical emergency. "Medical emergency"
17 means the occurrence of a sudden, serious, and unexpected
18 sickness or injury that would lead a reasonable person,

1 possessing an average knowledge of medicine and health, to
2 believe that the sick or injured person requires urgent or
3 unscheduled medical care.

4 Section 5.25. Physical fitness facility.

5 (a) "Physical fitness facility" means the following:

6 (1) Any of the following that is (i) owned or
7 operated by a park district, municipality, or other unit
8 of local government or by a public or private elementary
9 or secondary school, college, university, or technical or
10 trade school and (ii) supervised by one or more persons
11 employed by the unit of local government, school,
12 college, or university for the purpose of supervising the
13 use of the facility: swimming pool; stadium; athletic
14 field; track and field facility; tennis court; basketball
15 court; or volleyball court.

16 (2) A golf course.

17 (3) Except as provided in subsection (b), any other
18 establishment, whether public or private, that provides
19 services or facilities for preserving, maintaining,
20 encouraging, or developing physical fitness or
21 well-being, including an establishment designated as a
22 "health club", "fitness club", or "exercise gym" or by
23 any other term of similar import.

24 (b) "Physical fitness facility" does not include a
25 facility located in a hospital or in a hotel or motel. The
26 term also does not include any facility that does not employ
27 any persons to provide instruction, training, or assistance
28 for persons using the facility.

29 Section 10. Medical emergency plan required.

30 (a) Before July 1, 2004, every physical fitness facility
31 must adopt and implement a written plan for responding to
32 medical emergencies that occur at the facility during the

1 time that the facility is open for use by its members or by
2 the public. The plan must comply with this Act and rules
3 adopted by the Department to implement this Act. The facility
4 must file a copy of the plan with the Department.

5 (b) Whenever there is a change in the structure occupied
6 by the facility or in the services provided or offered by the
7 facility that would materially affect the facility's ability
8 to respond to a medical emergency, the facility must promptly
9 update its plan developed under subsection (a) and must file
10 a copy of the updated plan with the Department.

11 Section 15. Automated external defibrillator required.

12 (a) Before July 1, 2004, every physical fitness facility
13 must have at least one automated external defibrillator on
14 the facility's premises. The Department shall adopt rules to
15 ensure coordination with local emergency medical services
16 systems regarding the placement and use of AEDs in physical
17 fitness facilities. The Department may adopt rules requiring
18 a facility to have more than one AED on the premises, based
19 on factors that include, but need not be limited to, the
20 following:

21 (1) The size of the area or the number of buildings
22 or floors occupied by the facility.

23 (2) The number of persons using the facility.

24 (b) During the time that a physical fitness facility is
25 open for use by its members or by the public, the facility
26 must ensure that there is on the premises at least one
27 trained AED user for every AED. As used in this subsection,
28 "trained AED user" has the same meaning as in the Automated
29 External Defibrillator Act.

30 (c) Every physical fitness facility must ensure that
31 every AED on the facility's premises is properly tested and
32 maintained in accordance with rules adopted by the
33 Department.

1 Section 20. Training. The Department shall adopt rules
2 to establish programs to train physical fitness facility
3 staff on the role of cardiopulmonary resuscitation and the
4 use of automated external defibrillators. The rules must be
5 consistent with those adopted by the Department for training
6 AED users under the Automated External Defibrillator Act.

7 Section 25. Economic incentives.

8 (a) The Department must work with physical fitness
9 facilities and manufacturers and distributors of automated
10 external defibrillators to develop a procedure by which 2 or
11 more facilities may submit a joint bid for the purchase of
12 AEDs in order to maximize their purchasing power.

13 (b) A private physical fitness facility that purchases
14 an automated external defibrillator in order to comply with
15 this Act is eligible for a tax exemption as provided in
16 Section 3-5 of the Use Tax Act, Section 3-5 of the Service
17 Use Tax Act, Section 3-5 of the Service Occupation Tax Act,
18 and Section 2-5 of the Retailers' Occupation Tax Act.

19 Section 30. Inspections. The Department shall inspect a
20 physical fitness facility in response to a complaint filed
21 with the Department alleging a violation of this Act. For the
22 purpose of ensuring compliance with this Act, the Department
23 may inspect a physical fitness facility at other times in
24 accordance with rules adopted by the Department.

25 Section 35. Penalties for violations.

26 (a) If a physical fitness facility violates this Act by
27 (i) failing to adopt or implement a plan for responding to
28 medical emergencies under Section 10 or (ii) failing to have
29 on the premises an AED or trained AED user as required under
30 subsection (a) or (b) of Section 15, the Director may impose
31 a civil penalty against the facility as follows:

1 (1) At least \$250 but less than \$500 for a first
2 violation.

3 (2) At least \$500 but less than \$1,000 for a second
4 violation.

5 (3) At least \$1,000 for a third or subsequent
6 violation.

7 (b) The Director may impose a civil penalty under this
8 Section only after it provides the following to the facility:

9 (1) Written notice of the alleged violation.

10 (2) Written notice of the facility's right to
11 request an administrative hearing on the question of the
12 alleged violation.

13 (3) An opportunity to present evidence, orally or
14 in writing or both, on the question of the alleged
15 violation before an impartial hearing examiner appointed
16 by the Director.

17 (4) A written decision from the Director, based on
18 the evidence introduced at the hearing and the hearing
19 examiner's recommendations, finding that the facility
20 violated this Act and imposing the civil penalty.

21 (c) The Attorney General may bring an action in the
22 circuit court to enforce the collection of a monetary penalty
23 imposed under this Section.

24 Section 40. Rules. The Department shall adopt rules to
25 implement this Act.

26 Section 45. Liability. Nothing in this Act shall be
27 construed to either limit or expand the exemptions from civil
28 liability in connection with the purchase or use of an
29 automated external defibrillator that are provided under the
30 Automated External Defibrillator Act or under any other
31 provision of law.

1 Section 50. Compliance dates; private and public
2 physical fitness facilities.

3 (a) Privately-owned physical fitness facilities. Every
4 privately-owned or operated physical fitness facility must be
5 in compliance with this Act on or before July 1, 2004.

6 (b) Publicly owned physical fitness facilities. A
7 public entity owning or operating 4 or fewer physical fitness
8 facilities must have at least one such facility in compliance
9 with this Act on or before July 1, 2004; its second facility
10 in compliance by July 1, 2005; its third facility in
11 compliance by July 1, 2006; and its fourth facility in
12 compliance by July 1, 2007. Any public entity owning or
13 operating more than 4 physical fitness facilities must have
14 25% of its facilities in compliance by July 1, 2004; 50% of
15 its facilities in compliance by July 1, 2005; 75% of its
16 facilities in compliance by July 1, 2006; and 100% of its
17 facilities in compliance by July 1, 2007.

18 Section 88. The State Mandates Act is amended by adding
19 Section 8.27 as follows:

20 (30 ILCS 805/8.27 new)

21 Sec. 8.27. Exempt mandate. Notwithstanding Sections 6
22 and 8 of this Act, no reimbursement by the State is required
23 for the implementation of any mandate created by this
24 amendatory Act of the 93rd General Assembly.

25 Section 90. The Use Tax Act is amended by changing
26 Section 3-5 as follows:

27 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

30 (1) Personal property purchased from a corporation,

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

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

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

25 (4) Personal property purchased by a governmental body,
26 by a corporation, society, association, foundation, or
27 institution organized and operated exclusively for
28 charitable, religious, or educational purposes, or by a
29 not-for-profit corporation, society, association, foundation,
30 institution, or organization that has no compensated officers
31 or employees and that is organized and operated primarily for
32 the recreation of persons 55 years of age or older. A limited
33 liability company may qualify for the exemption under this
34 paragraph only if the limited liability company is organized

1 and operated exclusively for educational purposes. On and
2 after July 1, 1987, however, no entity otherwise eligible for
3 this exemption shall make tax-free purchases unless it has an
4 active exemption identification number issued by the
5 Department.

6 (5) A passenger car that is a replacement vehicle to the
7 extent that the purchase price of the car is subject to the
8 Replacement Vehicle Tax.

9 (6) Graphic arts machinery and equipment, including
10 repair and replacement parts, both new and used, and
11 including that manufactured on special order, certified by
12 the purchaser to be used primarily for graphic arts
13 production, and including machinery and equipment purchased
14 for lease. Equipment includes chemicals or chemicals acting
15 as catalysts but only if the chemicals or chemicals acting as
16 catalysts effect a direct and immediate change upon a graphic
17 arts product.

18 (7) Farm chemicals.

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

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

26 (10) A motor vehicle of the first division, a motor
27 vehicle of the second division that is a self-contained motor
28 vehicle designed or permanently converted to provide living
29 quarters for recreational, camping, or travel use, with
30 direct walk through to the living quarters from the driver's
31 seat, or a motor vehicle of the second division that is of
32 the van configuration designed for the transportation of not
33 less than 7 nor more than 16 passengers, as defined in
34 Section 1-146 of the Illinois Vehicle Code, that is used for

1 automobile renting, as defined in the Automobile Renting
2 Occupation and Use Tax Act.

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

22 Farm machinery and equipment shall include precision
23 farming equipment that is installed or purchased to be
24 installed on farm machinery and equipment including, but not
25 limited to, tractors, harvesters, sprayers, planters,
26 seeders, or spreaders. Precision farming equipment includes,
27 but is not limited to, soil testing sensors, computers,
28 monitors, software, global positioning and mapping systems,
29 and other such equipment.

30 Farm machinery and equipment also includes computers,
31 sensors, software, and related equipment used primarily in
32 the computer-assisted operation of production agriculture
33 facilities, equipment, and activities such as, but not
34 limited to, the collection, monitoring, and correlation of

1 animal and crop data for the purpose of formulating animal
2 diets and agricultural chemicals. This item (11) is exempt
3 from the provisions of Section 3-90.

4 (12) Fuel and petroleum products sold to or used by an
5 air common carrier, certified by the carrier to be used for
6 consumption, shipment, or storage in the conduct of its
7 business as an air common carrier, for a flight destined for
8 or returning from a location or locations outside the United
9 States without regard to previous or subsequent domestic
10 stopovers.

11 (13) Proceeds of mandatory service charges separately
12 stated on customers' bills for the purchase and consumption
13 of food and beverages purchased at retail from a retailer, to
14 the extent that the proceeds of the service charge are in
15 fact 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) Oil field exploration, drilling, and production
20 equipment, including (i) rigs and parts of rigs, rotary rigs,
21 cable tool rigs, and workover rigs, (ii) pipe and tubular
22 goods, including casing and drill strings, (iii) pumps and
23 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
27 required to be registered under the Illinois Vehicle Code.

28 (15) Photoprocessing machinery and equipment, including
29 repair and replacement parts, both new and used, including
30 that manufactured on special order, certified by the
31 purchaser to be used primarily for photoprocessing, and
32 including photoprocessing machinery and equipment purchased
33 for lease.

34 (16) Coal exploration, mining, offhighway hauling,

1 processing, maintenance, and reclamation equipment, including
2 replacement parts and equipment, and including equipment
3 purchased for lease, but excluding motor vehicles required to
4 be registered under the Illinois Vehicle Code.

5 (17) Distillation machinery and equipment, sold as a
6 unit or kit, assembled or installed by the retailer,
7 certified by the user to be used only for the production of
8 ethyl alcohol that will be used for consumption as motor fuel
9 or as a component of motor fuel for the personal use of the
10 user, and not subject to sale or resale.

11 (18) Manufacturing and assembling machinery and
12 equipment used primarily in the process of manufacturing or
13 assembling tangible personal property for wholesale or retail
14 sale or lease, whether that sale or lease is made directly by
15 the manufacturer or by some other person, whether the
16 materials used in the process are owned by the manufacturer
17 or some other person, or whether that sale or lease is made
18 apart from or as an incident to the seller's engaging in the
19 service occupation of producing machines, tools, dies, jigs,
20 patterns, gauges, or other similar items of no commercial
21 value on special order for a particular purchaser.

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

27 (20) Semen used for artificial insemination of livestock
28 for direct agricultural production.

29 (21) Horses, or interests in horses, registered with and
30 meeting the requirements of any of the Arabian Horse Club
31 Registry of America, Appaloosa Horse Club, American Quarter
32 Horse Association, United States Trotting Association, or
33 Jockey Club, as appropriate, used for purposes of breeding or
34 racing for prizes.

1 (22) Computers and communications equipment utilized for
2 any hospital purpose and equipment used in the diagnosis,
3 analysis, or treatment of hospital patients purchased by a
4 lessor who leases the equipment, under a lease of one year or
5 longer executed or in effect at the time the lessor would
6 otherwise be subject to the tax imposed by this Act, to a
7 hospital that has been issued an active tax exemption
8 identification number by the Department under Section 1g of
9 the Retailers' Occupation Tax Act. If the equipment is
10 leased in a manner that does not qualify for this exemption
11 or is used in any other non-exempt manner, the lessor shall
12 be liable for the tax imposed under this Act or the Service
13 Use Tax Act, as the case may be, based on the fair market
14 value of the property at the time the non-qualifying use
15 occurs. No lessor shall collect or attempt to collect an
16 amount (however designated) that purports to reimburse that
17 lessor for the tax imposed by this Act or the Service Use Tax
18 Act, as the case may be, if the tax has not been paid by the
19 lessor. If a lessor improperly collects any such amount from
20 the lessee, the lessee shall have a legal right to claim a
21 refund of that amount from the lessor. If, however, that
22 amount is not refunded to the lessee for any reason, the
23 lessor is liable to pay that amount to the Department.

24 (23) Personal property purchased by a lessor who leases
25 the property, under a lease of one year or longer executed
26 or in effect at the time the lessor would otherwise be
27 subject to the tax imposed by this Act, to a governmental
28 body that has been issued an active sales tax exemption
29 identification number by the Department under Section 1g of
30 the Retailers' Occupation Tax Act. If the property is leased
31 in a manner that does not qualify for this exemption or used
32 in any other non-exempt manner, the lessor shall be liable
33 for the tax imposed under this Act or the Service Use Tax
34 Act, as the case may be, based on the fair market value of

1 the property at the time the non-qualifying use occurs. No
2 lessor shall collect or attempt to collect an amount (however
3 designated) that purports to reimburse that lessor for the
4 tax imposed by this Act or the Service Use Tax Act, as the
5 case may be, if the tax has not been paid by the lessor. If
6 a lessor improperly collects any such amount from the lessee,
7 the lessee shall have a legal right to claim a refund of that
8 amount from the lessor. If, however, that amount is not
9 refunded to the lessee for any reason, the lessor is liable
10 to pay that amount to the Department.

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

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

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

1 purchased at a "game breeding and hunting preserve area" or
2 an "exotic game hunting area" as those terms are used in the
3 Wildlife Code or at a hunting enclosure approved through
4 rules adopted by the Department of Natural Resources. This
5 paragraph is exempt from the provisions of Section 3-90.

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

25 (28) Beginning January 1, 2000, personal property,
26 including food, purchased through fundraising events for the
27 benefit of a public or private elementary or secondary
28 school, a group of those schools, or one or more school
29 districts if the events are sponsored by an entity recognized
30 by the school district that consists primarily of volunteers
31 and includes parents and teachers of the school children.
32 This paragraph does not apply to fundraising events (i) for
33 the benefit of private home instruction or (ii) for which the
34 fundraising entity purchases the personal property sold at

1 the events from another individual or entity that sold the
2 property for the purpose of resale by the fundraising entity
3 and that profits from the sale to the fundraising entity.
4 This paragraph is exempt from the provisions of Section 3-90.

5 (29) Beginning January 1, 2000 and through December 31,
6 2001, new or used automatic vending machines that prepare and
7 serve hot food and beverages, including coffee, soup, and
8 other items, and replacement parts for these machines.
9 Beginning January 1, 2002, machines and parts for machines
10 used in commercial, coin-operated amusement and vending
11 business if a use or occupation tax is paid on the gross
12 receipts derived from the use of the commercial,
13 coin-operated amusement and vending machines. This paragraph
14 is exempt from the provisions of Section 3-90.

15 (30) Food for human consumption that is to be consumed
16 off the premises where it is sold (other than alcoholic
17 beverages, soft drinks, and food that has been prepared for
18 immediate consumption) and prescription and nonprescription
19 medicines, drugs, medical appliances, and insulin, urine
20 testing materials, syringes, and needles used by diabetics,
21 for human use, when purchased for use by a person receiving
22 medical assistance under Article 5 of the Illinois Public Aid
23 Code who resides in a licensed long-term care facility, as
24 defined in the Nursing Home Care Act.

25 (31) Beginning on the effective date of this amendatory
26 Act of the 92nd General Assembly, computers and
27 communications equipment utilized for any hospital purpose
28 and equipment used in the diagnosis, analysis, or treatment
29 of hospital patients purchased by a lessor who leases the
30 equipment, under a lease of one year or longer executed or in
31 effect at the time the lessor would otherwise be subject to
32 the tax imposed by this Act, to a hospital that has been
33 issued an active tax exemption identification number by the
34 Department under Section 1g of the Retailers' Occupation Tax

1 Act. If the equipment is leased in a manner that does not
2 qualify for this exemption or is used in any other nonexempt
3 manner, the lessor shall be liable for the tax imposed under
4 this Act or the Service Use Tax Act, as the case may be,
5 based on the fair market value of the property at the time
6 the nonqualifying use occurs. No lessor shall collect or
7 attempt to collect an amount (however designated) that
8 purports to reimburse that lessor for the tax imposed by this
9 Act or the Service Use Tax Act, as the case may be, if the
10 tax has not been paid by the lessor. If a lessor improperly
11 collects any such amount from the lessee, the lessee shall
12 have a legal right to claim a refund of that amount from the
13 lessor. If, however, that amount is not refunded to the
14 lessee for any reason, the lessor is liable to pay that
15 amount to the Department. This paragraph is exempt from the
16 provisions of Section 3-90.

17 (32) Beginning on the effective date of this amendatory
18 Act of the 92nd General Assembly, personal property purchased
19 by a lessor who leases the property, under a lease of one
20 year or longer executed or in effect at the time the lessor
21 would otherwise be subject to the tax imposed by this Act, to
22 a governmental body that has been issued an active sales tax
23 exemption identification number by the Department under
24 Section 1g of the Retailers' Occupation Tax Act. If the
25 property is leased in a manner that does not qualify for this
26 exemption or used in any other nonexempt manner, the lessor
27 shall be liable for the tax imposed under this Act or the
28 Service Use Tax Act, as the case may be, based on the fair
29 market value of the property at the time the nonqualifying
30 use occurs. No lessor shall collect or attempt to collect an
31 amount (however designated) that purports to reimburse that
32 lessor for the tax imposed by this Act or the Service Use Tax
33 Act, as the case may be, if the tax has not been paid by the
34 lessor. If a lessor improperly collects any such amount from

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

6 (33) Beginning January 1, 2004 and ending December 31,
7 2006, automated external defibrillators purchased by a
8 physical fitness facility for the purpose of complying with
9 the Physical Fitness Facility Medical Emergency Preparedness
10 Act, up to a maximum exemption of \$300 per year. For purposes
11 of this paragraph (33), "physical fitness facility" is
12 defined as in the Physical Fitness Facility Medical Emergency
13 Preparedness Act, except that the term does not include any
14 facility that is owned or operated by a unit of local
15 government or a public school, college, or university.

16 (Source: P.A. 91-51, eff. 6-30-99; 91-200, eff. 7-20-99;
17 91-439, eff. 8-6-99; 91-637, eff. 8-20-99; 91-644, eff.
18 8-20-99; 91-901, eff. 1-1-01; 92-35, eff. 7-1-01; 92-227,
19 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
20 92-651, eff. 7-11-02.)

21 Section 91. The Service Use Tax Act is amended by
22 changing Section 3-5 as follows:

23 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

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

26 (1) Personal property purchased from a corporation,
27 society, association, foundation, institution, or
28 organization, other than a limited liability company, that is
29 organized and operated as a not-for-profit service enterprise
30 for the benefit of persons 65 years of age or older if the
31 personal property was not purchased by the enterprise for the
32 purpose of resale by the enterprise.

1 (2) Personal property purchased by a non-profit Illinois
2 county fair association for use in conducting, operating, or
3 promoting the county fair.

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

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

23 (5) Graphic arts machinery and equipment, including
24 repair and replacement parts, both new and used, and
25 including that manufactured on special order or purchased for
26 lease, certified by the purchaser to be used primarily for
27 graphic arts production. Equipment includes chemicals or
28 chemicals acting as catalysts but only if the chemicals or
29 chemicals acting as catalysts effect a direct and immediate
30 change upon a graphic arts product.

31 (6) Personal property purchased from a teacher-sponsored
32 student organization affiliated with an elementary or
33 secondary school located in Illinois.

34 (7) Farm machinery and equipment, both new and used,

1 including that manufactured on special order, certified by
2 the purchaser to be used primarily for production agriculture
3 or State or federal agricultural programs, including
4 individual replacement parts for the machinery and equipment,
5 including machinery and equipment purchased for lease, and
6 including implements of husbandry defined in Section 1-130 of
7 the Illinois Vehicle Code, farm machinery and agricultural
8 chemical and fertilizer spreaders, and nurse wagons required
9 to be registered under Section 3-809 of the Illinois Vehicle
10 Code, but excluding other motor vehicles required to be
11 registered under the Illinois Vehicle Code. Horticultural
12 polyhouses or hoop houses used for propagating, growing, or
13 overwintering plants shall be considered farm machinery and
14 equipment under this item (7). Agricultural chemical tender
15 tanks and dry boxes shall include units sold separately from
16 a motor vehicle required to be licensed and units sold
17 mounted on a motor vehicle required to be licensed if the
18 selling price of the tender is separately stated.

19 Farm machinery and equipment shall include precision
20 farming equipment that is installed or purchased to be
21 installed on farm machinery and equipment including, but not
22 limited to, tractors, harvesters, sprayers, planters,
23 seeders, or spreaders. Precision farming equipment includes,
24 but is not limited to, soil testing sensors, computers,
25 monitors, software, global positioning and mapping systems,
26 and other such equipment.

27 Farm machinery and equipment also includes computers,
28 sensors, software, and related equipment used primarily in
29 the computer-assisted operation of production agriculture
30 facilities, equipment, and activities such as, but not
31 limited to, the collection, monitoring, and correlation of
32 animal and crop data for the purpose of formulating animal
33 diets and agricultural chemicals. This item (7) is exempt
34 from the provisions of Section 3-75.

1 (8) Fuel and petroleum products sold to or used by an
2 air common carrier, certified by the carrier to be used for
3 consumption, shipment, or storage in the conduct of its
4 business as an air common carrier, for a flight destined for
5 or returning from a location or locations outside the United
6 States without regard to previous or subsequent domestic
7 stopovers.

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

17 (10) Oil field exploration, drilling, and production
18 equipment, including (i) rigs and parts of rigs, rotary rigs,
19 cable tool rigs, and workover rigs, (ii) pipe and tubular
20 goods, including casing and drill strings, (iii) pumps and
21 pump-jack units, (iv) storage tanks and flow lines, (v) any
22 individual replacement part for oil field exploration,
23 drilling, and production equipment, and (vi) machinery and
24 equipment purchased for lease; but excluding motor vehicles
25 required to be registered under the Illinois Vehicle Code.

26 (11) Proceeds from the sale of photoprocessing machinery
27 and equipment, including repair and replacement parts, both
28 new and used, including that manufactured on special order,
29 certified by the purchaser to be used primarily for
30 photoprocessing, and including photoprocessing machinery and
31 equipment purchased for lease.

32 (12) Coal exploration, mining, offhighway hauling,
33 processing, maintenance, and reclamation equipment, including
34 replacement parts and equipment, and including equipment

1 purchased for lease, but excluding motor vehicles required to
2 be registered under the Illinois Vehicle Code.

3 (13) Semen used for artificial insemination of livestock
4 for direct agricultural production.

5 (14) Horses, or interests in horses, registered with and
6 meeting the requirements of any of the Arabian Horse Club
7 Registry of America, Appaloosa Horse Club, American Quarter
8 Horse Association, United States Trotting Association, or
9 Jockey Club, as appropriate, used for purposes of breeding or
10 racing for prizes.

11 (15) Computers and communications equipment utilized for
12 any hospital purpose and equipment used in the diagnosis,
13 analysis, or treatment of hospital patients purchased by a
14 lessor who leases the equipment, under a lease of one year or
15 longer executed or in effect at the time the lessor would
16 otherwise be subject to the tax imposed by this Act, to a
17 hospital that has been issued an active tax exemption
18 identification number by the Department under Section 1g of
19 the Retailers' Occupation Tax Act. If the equipment is leased
20 in a manner that does not qualify for this exemption or is
21 used in any other non-exempt manner, the lessor shall be
22 liable for the tax imposed under this Act or the Use Tax Act,
23 as the case may be, based on the fair market value of the
24 property at the time the non-qualifying use occurs. No
25 lessor shall collect or attempt to collect an amount (however
26 designated) that purports to reimburse that lessor for the
27 tax imposed by this Act or the Use Tax Act, as the case may
28 be, if the tax has not been paid by the lessor. If a lessor
29 improperly collects any such amount from the lessee, the
30 lessee shall have a legal right to claim a refund of that
31 amount from the lessor. If, however, that amount is not
32 refunded to the lessee for any reason, the lessor is liable
33 to pay that amount to the Department.

34 (16) Personal property purchased by a lessor who leases

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

21 (17) Beginning with taxable years ending on or after
22 December 31, 1995 and ending with taxable years ending on or
23 before December 31, 2004, personal property that is donated
24 for disaster relief to be used in a State or federally
25 declared disaster area in Illinois or bordering Illinois by a
26 manufacturer or retailer that is registered in this State to
27 a corporation, society, association, foundation, or
28 institution that has been issued a sales tax exemption
29 identification number by the Department that assists victims
30 of the disaster who reside within the declared disaster area.

31 (18) Beginning with taxable years ending on or after
32 December 31, 1995 and ending with taxable years ending on or
33 before December 31, 2004, personal property that is used in
34 the performance of infrastructure repairs in this State,

1 including but not limited to municipal roads and streets,
2 access roads, bridges, sidewalks, waste disposal systems,
3 water and sewer line extensions, water distribution and
4 purification facilities, storm water drainage and retention
5 facilities, and sewage treatment facilities, resulting from a
6 State or federally declared disaster in Illinois or bordering
7 Illinois when such repairs are initiated on facilities
8 located in the declared disaster area within 6 months after
9 the disaster.

10 (19) Beginning July 1, 1999, game or game birds
11 purchased at a "game breeding and hunting preserve area" or
12 an "exotic game hunting area" as those terms are used in the
13 Wildlife Code or at a hunting enclosure approved through
14 rules adopted by the Department of Natural Resources. This
15 paragraph is exempt from the provisions of Section 3-75.

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

1 (21) Beginning January 1, 2000, personal property,
2 including food, purchased through fundraising events for the
3 benefit of a public or private elementary or secondary
4 school, a group of those schools, or one or more school
5 districts if the events are sponsored by an entity recognized
6 by the school district that consists primarily of volunteers
7 and includes parents and teachers of the school children.
8 This paragraph does not apply to fundraising events (i) for
9 the benefit of private home instruction or (ii) for which the
10 fundraising entity purchases the personal property sold at
11 the events from another individual or entity that sold the
12 property for the purpose of resale by the fundraising entity
13 and that profits from the sale to the fundraising entity.
14 This paragraph is exempt from the provisions of Section 3-75.

15 (22) Beginning January 1, 2000 and through December 31,
16 2001, new or used automatic vending machines that prepare and
17 serve hot food and beverages, including coffee, soup, and
18 other items, and replacement parts for these machines.
19 Beginning January 1, 2002, machines and parts for machines
20 used in commercial, coin-operated amusement and vending
21 business if a use or occupation tax is paid on the gross
22 receipts derived from the use of the commercial,
23 coin-operated amusement and vending machines. This paragraph
24 is exempt from the provisions of Section 3-75.

25 (23) Food for human consumption that is to be consumed
26 off the premises where it is sold (other than alcoholic
27 beverages, soft drinks, and food that has been prepared for
28 immediate consumption) and prescription and nonprescription
29 medicines, drugs, medical appliances, and insulin, urine
30 testing materials, syringes, and needles used by diabetics,
31 for human use, when purchased for use by a person receiving
32 medical assistance under Article 5 of the Illinois Public Aid
33 Code who resides in a licensed long-term care facility, as
34 defined in the Nursing Home Care Act.

1 (24) Beginning on the effective date of this
2 amendatory Act of the 92nd General Assembly, computers and
3 communications equipment utilized for any hospital purpose
4 and equipment used in the diagnosis, analysis, or treatment
5 of hospital patients purchased by a lessor who leases the
6 equipment, under a lease of one year or longer executed or in
7 effect at the time the lessor would otherwise be subject to
8 the tax imposed by this Act, to a hospital that has been
9 issued an active tax exemption identification number by the
10 Department under Section 1g of the Retailers' Occupation Tax
11 Act. If the equipment is leased in a manner that does not
12 qualify for this exemption or is used in any other nonexempt
13 manner, the lessor shall be liable for the tax imposed under
14 this Act or the Use Tax Act, as the case may be, based on the
15 fair market value of the property at the time the
16 nonqualifying use occurs. No lessor shall collect or attempt
17 to collect an amount (however designated) that purports to
18 reimburse that lessor for the tax imposed by this Act or the
19 Use Tax Act, as the case may be, if the tax has not been paid
20 by the lessor. If a lessor improperly collects any such
21 amount from the lessee, the lessee shall have a legal right
22 to claim a refund of that amount from the lessor. If,
23 however, that amount is not refunded to the lessee for any
24 reason, the lessor is liable to pay that amount to the
25 Department. This paragraph is exempt from the provisions of
26 Section 3-75.

27 (25) Beginning on the effective date of this amendatory
28 Act of the 92nd General Assembly, personal property purchased
29 by a lessor who leases the property, under a lease of one
30 year or longer executed or in effect at the time the lessor
31 would otherwise be subject to the tax imposed by this Act, to
32 a governmental body that has been issued an active tax
33 exemption identification number by the Department under
34 Section 1g of the Retailers' Occupation Tax Act. If the

1 property is leased in a manner that does not qualify for this
2 exemption or is used in any other nonexempt manner, the
3 lessor shall be liable for the tax imposed under this Act or
4 the Use Tax Act, as the case may be, based on the fair market
5 value of the property at the time the nonqualifying use
6 occurs. No lessor shall collect or attempt to collect an
7 amount (however designated) that purports to reimburse that
8 lessor for the tax imposed by this Act or the Use Tax Act, as
9 the case may be, if the tax has not been paid by the lessor.
10 If a lessor improperly collects any such amount from the
11 lessee, the lessee shall have a legal right to claim a refund
12 of that amount from the lessor. If, however, that amount is
13 not refunded to the lessee for any reason, the lessor is
14 liable to pay that amount to the Department. This paragraph
15 is exempt from the provisions of Section 3-75.

16 (26) Beginning January 1, 2004 and ending December 31,
17 2006, automated external defibrillators purchased by a
18 physical fitness facility for the purpose of complying with
19 the Physical Fitness Facility Medical Emergency Preparedness
20 Act, up to a maximum exemption of \$300 per year. For purposes
21 of this paragraph (26), "physical fitness facility" is
22 defined as in the Physical Fitness Facility Medical Emergency
23 Preparedness Act, except that the term does not include any
24 facility that is owned or operated by a unit of local
25 government or a public school, college, or university.

26 (Source: P.A. 91-51, eff. 6-30-99; 91-200, eff. 7-20-99;
27 91-439, eff. 8-6-99; 91-637, eff. 8-20-99; 91-644, eff.
28 8-20-99; 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
29 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
30 92-651, eff. 7-11-02.)

31 Section 92. The Service Occupation Tax Act is amended by
32 changing Section 3-5 as follows:

1 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

2 Sec. 3-5. Exemptions. The following tangible personal
3 property is exempt from the tax imposed by this Act:

4 (1) Personal property sold by a corporation, society,
5 association, foundation, institution, or organization, other
6 than a limited liability company, that is organized and
7 operated as a not-for-profit service enterprise for the
8 benefit of persons 65 years of age or older if the personal
9 property was not purchased by the enterprise for the purpose
10 of resale by the enterprise.

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

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

29 (4) Legal tender, currency, medallions, or gold or
30 silver coinage issued by the State of Illinois, the
31 government of the United States of America, or the government
32 of any foreign country, and bullion.

33 (5) Graphic arts machinery and equipment, including
34 repair and replacement parts, both new and used, and

1 including that manufactured on special order or purchased for
2 lease, certified by the purchaser to be used primarily for
3 graphic arts production. Equipment includes chemicals or
4 chemicals acting as catalysts but only if the chemicals or
5 chemicals acting as catalysts effect a direct and immediate
6 change upon a graphic arts product.

7 (6) Personal property sold by a teacher-sponsored
8 student organization affiliated with an elementary or
9 secondary school located in Illinois.

10 (7) Farm machinery and equipment, both new and used,
11 including that manufactured on special order, certified by
12 the purchaser to be used primarily for production agriculture
13 or State or federal agricultural programs, including
14 individual replacement parts for the machinery and equipment,
15 including machinery and equipment purchased for lease, and
16 including implements of husbandry defined in Section 1-130 of
17 the Illinois Vehicle Code, farm machinery and agricultural
18 chemical and fertilizer spreaders, and nurse wagons required
19 to be registered under Section 3-809 of the Illinois Vehicle
20 Code, but excluding other motor vehicles required to be
21 registered under the Illinois Vehicle Code. Horticultural
22 polyhouses or hoop houses used for propagating, growing, or
23 overwintering plants shall be considered farm machinery and
24 equipment under this item (7). Agricultural chemical tender
25 tanks and dry boxes shall include units sold separately from
26 a motor vehicle required to be licensed and units sold
27 mounted on a motor vehicle required to be licensed if the
28 selling price of the tender is separately stated.

29 Farm machinery and equipment shall include precision
30 farming equipment that is installed or purchased to be
31 installed on farm machinery and equipment including, but not
32 limited to, tractors, harvesters, sprayers, planters,
33 seeders, or spreaders. Precision farming equipment includes,
34 but is not limited to, soil testing sensors, computers,

1 monitors, software, global positioning and mapping systems,
2 and other such equipment.

3 Farm machinery and equipment also includes computers,
4 sensors, software, and related equipment used primarily in
5 the computer-assisted operation of production agriculture
6 facilities, equipment, and activities such as, but not
7 limited to, the collection, monitoring, and correlation of
8 animal and crop data for the purpose of formulating animal
9 diets and agricultural chemicals. This item (7) is exempt
10 from the provisions of Section 3-55.

11 (8) Fuel and petroleum products sold to or used by an
12 air common carrier, certified by the carrier to be used for
13 consumption, shipment, or storage in the conduct of its
14 business as an air common carrier, for a flight destined for
15 or returning from a location or locations outside the United
16 States without regard to previous or subsequent domestic
17 stopovers.

18 (9) Proceeds of mandatory service charges separately
19 stated on customers' bills for the purchase and consumption
20 of food and beverages, to the extent that the proceeds of the
21 service charge are in fact turned over as tips or as a
22 substitute for tips to the employees who participate directly
23 in preparing, serving, hosting or cleaning up the food or
24 beverage function with respect to which the service charge is
25 imposed.

26 (10) Oil field exploration, drilling, and production
27 equipment, including (i) rigs and parts of rigs, rotary rigs,
28 cable tool rigs, and workover rigs, (ii) pipe and tubular
29 goods, including casing and drill strings, (iii) pumps and
30 pump-jack units, (iv) storage tanks and flow lines, (v) any
31 individual replacement part for oil field exploration,
32 drilling, and production equipment, and (vi) machinery and
33 equipment purchased for lease; but excluding motor vehicles
34 required to be registered under the Illinois Vehicle Code.

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

7 (12) Coal exploration, mining, offhighway hauling,
8 processing, maintenance, and reclamation equipment, including
9 replacement parts and equipment, and including equipment
10 purchased for lease, but excluding motor vehicles required to
11 be registered under the Illinois Vehicle Code.

12 (13) Food for human consumption that is to be consumed
13 off the premises where it is sold (other than alcoholic
14 beverages, soft drinks and food that has been prepared for
15 immediate consumption) and prescription and non-prescription
16 medicines, drugs, medical appliances, and insulin, urine
17 testing materials, syringes, and needles used by diabetics,
18 for human use, when purchased for use by a person receiving
19 medical assistance under Article 5 of the Illinois Public Aid
20 Code who resides in a licensed long-term care facility, as
21 defined in the Nursing Home Care Act.

22 (14) Semen used for artificial insemination of livestock
23 for direct agricultural production.

24 (15) Horses, or interests in horses, registered with and
25 meeting the requirements of any of the Arabian Horse Club
26 Registry of America, Appaloosa Horse Club, American Quarter
27 Horse Association, United States Trotting Association, or
28 Jockey Club, as appropriate, used for purposes of breeding or
29 racing for prizes.

30 (16) Computers and communications equipment utilized for
31 any hospital purpose and equipment used in the diagnosis,
32 analysis, or treatment of hospital patients sold to a lessor
33 who leases the equipment, under a lease of one year or longer
34 executed or in effect at the time of the purchase, to a

1 hospital that has been issued an active tax exemption
2 identification number by the Department under Section 1g of
3 the Retailers' Occupation Tax Act.

4 (17) Personal property sold to a lessor who leases the
5 property, under a lease of one year or longer executed or in
6 effect at the time of the purchase, to a governmental body
7 that has been issued an active tax exemption identification
8 number by the Department under Section 1g of the Retailers'
9 Occupation Tax Act.

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

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

33 (20) Beginning July 1, 1999, game or game birds sold at
34 a "game breeding and hunting preserve area" or an "exotic

1 game hunting area" as those terms are used in the Wildlife
2 Code or at a hunting enclosure approved through rules adopted
3 by the Department of Natural Resources. This paragraph is
4 exempt from the provisions of Section 3-55.

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

24 (22) Beginning January 1, 2000, personal property,
25 including food, purchased through fundraising events for the
26 benefit of a public or private elementary or secondary
27 school, a group of those schools, or one or more school
28 districts if the events are sponsored by an entity recognized
29 by the school district that consists primarily of volunteers
30 and includes parents and teachers of the school children.
31 This paragraph does not apply to fundraising events (i) for
32 the benefit of private home instruction or (ii) for which the
33 fundraising entity purchases the personal property sold at
34 the events from another individual or entity that sold the

1 property for the purpose of resale by the fundraising entity
2 and that profits from the sale to the fundraising entity.
3 This paragraph is exempt from the provisions of Section 3-55.

4 (23) Beginning January 1, 2000 and through December 31,
5 2001, new or used automatic vending machines that prepare and
6 serve hot food and beverages, including coffee, soup, and
7 other items, and replacement parts for these machines.
8 Beginning January 1, 2002, machines and parts for machines
9 used in commercial, coin-operated amusement and vending
10 business if a use or occupation tax is paid on the gross
11 receipts derived from the use of the commercial,
12 coin-operated amusement and vending machines. This paragraph
13 is exempt from the provisions of Section 3-55.

14 (24) Beginning on the effective date of this amendatory
15 Act of the 92nd General Assembly, computers and
16 communications equipment utilized for any hospital purpose
17 and equipment used in the diagnosis, analysis, or treatment
18 of hospital patients sold to a lessor who leases the
19 equipment, under a lease of one year or longer executed or in
20 effect at the time of the purchase, to a hospital that has
21 been issued an active tax exemption identification number by
22 the Department under Section 1g of the Retailers' Occupation
23 Tax Act. This paragraph is exempt from the provisions of
24 Section 3-55.

25 (25) Beginning on the effective date of this amendatory
26 Act of the 92nd General Assembly, personal property sold to a
27 lessor who leases the property, under a lease of one year or
28 longer executed or in effect at the time of the purchase, to
29 a governmental body that has been issued an active tax
30 exemption identification number by the Department under
31 Section 1g of the Retailers' Occupation Tax Act. This
32 paragraph is exempt from the provisions of Section 3-55.

33 (26) Beginning on January 1, 2002, tangible personal
34 property purchased from an Illinois retailer by a taxpayer

1 engaged in centralized purchasing activities in Illinois who
2 will, upon receipt of the property in Illinois, temporarily
3 store the property in Illinois (i) for the purpose of
4 subsequently transporting it outside this State for use or
5 consumption thereafter solely outside this State or (ii) for
6 the purpose of being processed, fabricated, or manufactured
7 into, attached to, or incorporated into other tangible
8 personal property to be transported outside this State and
9 thereafter used or consumed solely outside this State. The
10 Director of Revenue shall, pursuant to rules adopted in
11 accordance with the Illinois Administrative Procedure Act,
12 issue a permit to any taxpayer in good standing with the
13 Department who is eligible for the exemption under this
14 paragraph (26). The permit issued under this paragraph (26)
15 shall authorize the holder, to the extent and in the manner
16 specified in the rules adopted under this Act, to purchase
17 tangible personal property from a retailer exempt from the
18 taxes imposed by this Act. Taxpayers shall maintain all
19 necessary books and records to substantiate the use and
20 consumption of all such tangible personal property outside of
21 the State of Illinois.

22 (27) Beginning January 1, 2004 and ending December 31,
23 2006, automated external defibrillators purchased by a
24 physical fitness facility for the purpose of complying with
25 the Physical Fitness Facility Medical Emergency Preparedness
26 Act, up to a maximum exemption of \$300 per year. For purposes
27 of this paragraph (27), "physical fitness facility" is
28 defined as in the Physical Fitness Facility Medical Emergency
29 Preparedness Act, except that the term does not include any
30 facility that is owned or operated by a unit of local
31 government or a public school, college, or university.

32 (Source: P.A. 91-51, eff. 6-30-99; 91-200, eff. 7-20-99;
33 91-439, eff. 8-6-99; 91-533, eff. 8-13-99; 91-637, eff.
34 8-20-99; 91-644, eff. 8-20-99; 92-16, eff. 6-28-01; 92-35,

1 eff. 7-1-01; 92-227, eff. 8-2-01; 92-337, eff. 8-10-01;
2 92-484, eff. 8-23-01; 92-488, eff. 8-23-01; 92-651, eff.
3 7-11-02.)

4 Section 93. The Retailers' Occupation Tax Act is amended
5 by changing Section 2-5 as follows:

6 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

10 (1) Farm chemicals.

11 (2) Farm machinery and equipment, both new and used,
12 including that manufactured on special order, certified by
13 the purchaser to be used primarily for production agriculture
14 or State or federal agricultural programs, including
15 individual replacement parts for the machinery and equipment,
16 including machinery and equipment purchased for lease, and
17 including implements of husbandry defined in Section 1-130 of
18 the Illinois Vehicle Code, farm machinery and agricultural
19 chemical and fertilizer spreaders, and nurse wagons required
20 to be registered under Section 3-809 of the Illinois Vehicle
21 Code, but excluding other motor vehicles required to be
22 registered under the Illinois Vehicle Code. Horticultural
23 polyhouses or hoop houses used for propagating, growing, or
24 overwintering plants shall be considered farm machinery and
25 equipment under this item (2). Agricultural chemical tender
26 tanks and dry boxes shall include units sold separately from
27 a motor vehicle required to be licensed and units sold
28 mounted on a motor vehicle required to be licensed, if the
29 selling price of the tender is separately stated.

30 Farm machinery and equipment shall include precision
31 farming equipment that is installed or purchased to be
32 installed on farm machinery and equipment including, but not

1 limited to, tractors, harvesters, sprayers, planters,
2 seeders, or spreaders. Precision farming equipment includes,
3 but is not limited to, soil testing sensors, computers,
4 monitors, software, global positioning and mapping systems,
5 and other such equipment.

6 Farm machinery and equipment also includes computers,
7 sensors, software, and related equipment used primarily in
8 the computer-assisted operation of production agriculture
9 facilities, equipment, and activities such as, but not
10 limited to, the collection, monitoring, and correlation of
11 animal and crop data for the purpose of formulating animal
12 diets and agricultural chemicals. This item (7) is exempt
13 from the provisions of Section 2-70.

14 (3) Distillation machinery and equipment, sold as a unit
15 or kit, assembled or installed by the retailer, certified by
16 the user to be used only for the production of ethyl alcohol
17 that will be used for consumption as motor fuel or as a
18 component of motor fuel for the personal use of the user, and
19 not subject to sale or resale.

20 (4) Graphic arts machinery and equipment, including
21 repair and replacement parts, both new and used, and
22 including that manufactured on special order or purchased for
23 lease, certified by the purchaser to be used primarily for
24 graphic arts production. Equipment includes chemicals or
25 chemicals acting as catalysts but only if the chemicals or
26 chemicals acting as catalysts effect a direct and immediate
27 change upon a graphic arts product.

28 (5) A motor vehicle of the first division, a motor
29 vehicle of the second division that is a self-contained motor
30 vehicle designed or permanently converted to provide living
31 quarters for recreational, camping, or travel use, with
32 direct walk through access to the living quarters from the
33 driver's seat, or a motor vehicle of the second division that
34 is of the van configuration designed for the transportation

1 of not less than 7 nor more than 16 passengers, as defined in
2 Section 1-146 of the Illinois Vehicle Code, that is used for
3 automobile renting, as defined in the Automobile Renting
4 Occupation and Use Tax Act.

5 (6) Personal property sold by a teacher-sponsored
6 student organization affiliated with an elementary or
7 secondary school located in Illinois.

8 (7) Proceeds of that portion of the selling price of a
9 passenger car the sale of which is subject to the Replacement
10 Vehicle Tax.

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

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

29 (10) Personal property sold by a corporation, society,
30 association, foundation, institution, or organization, other
31 than a limited liability company, that is organized and
32 operated as a not-for-profit service enterprise for the
33 benefit of persons 65 years of age or older if the personal
34 property was not purchased by the enterprise for the purpose

1 of resale by the enterprise.

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

16 (12) Personal property sold to interstate carriers for
17 hire for use as rolling stock moving in interstate commerce
18 or to lessors under leases of one year or longer executed or
19 in effect at the time of purchase by interstate carriers for
20 hire for use as rolling stock moving in interstate commerce
21 and equipment operated by a telecommunications provider,
22 licensed as a common carrier by the Federal Communications
23 Commission, which is permanently installed in or affixed to
24 aircraft moving in interstate commerce.

25 (13) Proceeds from sales to owners, lessors, or shippers
26 of tangible personal property that is utilized by interstate
27 carriers for hire for use as rolling stock moving in
28 interstate commerce and equipment operated by a
29 telecommunications provider, licensed as a common carrier by
30 the Federal Communications Commission, which is permanently
31 installed in or affixed to aircraft moving in interstate
32 commerce.

33 (14) Machinery and equipment that will be used by the
34 purchaser, or a lessee of the purchaser, primarily in the

1 process of manufacturing or assembling tangible personal
2 property for wholesale or retail sale or lease, whether the
3 sale or lease is made directly by the manufacturer or by some
4 other person, whether the materials used in the process are
5 owned by the manufacturer or some other person, or whether
6 the sale or lease is made apart from or as an incident to the
7 seller's engaging in the service occupation of producing
8 machines, tools, dies, jigs, patterns, gauges, or other
9 similar items of no commercial value on special order for a
10 particular purchaser.

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

19 (16) Petroleum products sold to a purchaser if the
20 seller is prohibited by federal law from charging tax to the
21 purchaser.

22 (17) Tangible personal property sold to a common carrier
23 by rail or motor that receives the physical possession of the
24 property in Illinois and that transports the property, or
25 shares with another common carrier in the transportation of
26 the property, out of Illinois on a standard uniform bill of
27 lading showing the seller of the property as the shipper or
28 consignor of the property to a destination outside Illinois,
29 for use outside Illinois.

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

34 (19) Oil field exploration, drilling, and production

1 equipment, including (i) rigs and parts of rigs, rotary rigs,
2 cable tool rigs, and workover rigs, (ii) pipe and tubular
3 goods, including casing and drill strings, (iii) pumps and
4 pump-jack units, (iv) storage tanks and flow lines, (v) any
5 individual replacement part for oil field exploration,
6 drilling, and production equipment, and (vi) machinery and
7 equipment purchased for lease; but excluding motor vehicles
8 required to be registered under the Illinois Vehicle Code.

9 (20) Photoprocessing machinery and equipment, including
10 repair and replacement parts, both new and used, including
11 that manufactured on special order, certified by the
12 purchaser to be used primarily for photoprocessing, and
13 including photoprocessing machinery and equipment purchased
14 for lease.

15 (21) Coal exploration, mining, offhighway hauling,
16 processing, maintenance, and reclamation equipment, including
17 replacement parts and equipment, and including equipment
18 purchased for lease, but excluding motor vehicles required to
19 be registered under the Illinois Vehicle Code.

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

27 (23) A transaction in which the purchase order is
28 received by a florist who is located outside Illinois, but
29 who has a florist located in Illinois deliver the property to
30 the purchaser or the purchaser's donee in Illinois.

31 (24) Fuel consumed or used in the operation of ships,
32 barges, or vessels that are used primarily in or for the
33 transportation of property or the conveyance of persons for
34 hire on rivers bordering on this State if the fuel is

1 delivered by the seller to the purchaser's barge, ship, or
2 vessel while it is afloat upon that bordering river.

3 (25) A motor vehicle sold in this State to a nonresident
4 even though the motor vehicle is delivered to the nonresident
5 in this State, if the motor vehicle is not to be titled in
6 this State, and if a drive-away permit is issued to the motor
7 vehicle as provided in Section 3-603 of the Illinois Vehicle
8 Code or if the nonresident purchaser has vehicle registration
9 plates to transfer to the motor vehicle upon returning to his
10 or her home state. The issuance of the drive-away permit or
11 having the out-of-state registration plates to be transferred
12 is prima facie evidence that the motor vehicle will not be
13 titled in this State.

14 (26) Semen used for artificial insemination of livestock
15 for direct agricultural production.

16 (27) Horses, or interests in horses, registered with and
17 meeting the requirements of any of the Arabian Horse Club
18 Registry of America, Appaloosa Horse Club, American Quarter
19 Horse Association, United States Trotting Association, or
20 Jockey Club, as appropriate, used for purposes of breeding or
21 racing for prizes.

22 (28) Computers and communications equipment utilized for
23 any hospital purpose and equipment used in the diagnosis,
24 analysis, or treatment of hospital patients sold to a lessor
25 who leases the equipment, under a lease of one year or longer
26 executed or in effect at the time of the purchase, to a
27 hospital that has been issued an active tax exemption
28 identification number by the Department under Section 1g of
29 this Act.

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

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

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

24 (32) Beginning July 1, 1999, game or game birds sold at
25 a "game breeding and hunting preserve area" or an "exotic
26 game hunting area" as those terms are used in the Wildlife
27 Code or at a hunting enclosure approved through rules adopted
28 by the Department of Natural Resources. This paragraph is
29 exempt from the provisions of Section 2-70.

30 (33) A motor vehicle, as that term is defined in Section
31 1-146 of the Illinois Vehicle Code, that is donated to a
32 corporation, limited liability company, society, association,
33 foundation, or institution that is determined by the
34 Department to be organized and operated exclusively for

1 educational purposes. For purposes of this exemption, "a
2 corporation, limited liability company, society, association,
3 foundation, or institution organized and operated exclusively
4 for educational purposes" means all tax-supported public
5 schools, private schools that offer systematic instruction in
6 useful branches of learning by methods common to public
7 schools and that compare favorably in their scope and
8 intensity with the course of study presented in tax-supported
9 schools, and vocational or technical schools or institutes
10 organized and operated exclusively to provide a course of
11 study of not less than 6 weeks duration and designed to
12 prepare individuals to follow a trade or to pursue a manual,
13 technical, mechanical, industrial, business, or commercial
14 occupation.

15 (34) Beginning January 1, 2000, personal property,
16 including food, purchased through fundraising events for the
17 benefit of a public or private elementary or secondary
18 school, a group of those schools, or one or more school
19 districts if the events are sponsored by an entity recognized
20 by the school district that consists primarily of volunteers
21 and includes parents and teachers of the school children.
22 This paragraph does not apply to fundraising events (i) for
23 the benefit of private home instruction or (ii) for which the
24 fundraising entity purchases the personal property sold at
25 the events from another individual or entity that sold the
26 property for the purpose of resale by the fundraising entity
27 and that profits from the sale to the fundraising entity.
28 This paragraph is exempt from the provisions of Section 2-70.

29 (35) Beginning January 1, 2000 and through December 31,
30 2001, new or used automatic vending machines that prepare and
31 serve hot food and beverages, including coffee, soup, and
32 other items, and replacement parts for these machines.
33 Beginning January 1, 2002, machines and parts for machines
34 used in commercial, coin-operated amusement and vending

1 business if a use or occupation tax is paid on the gross
2 receipts derived from the use of the commercial,
3 coin-operated amusement and vending machines. This paragraph
4 is exempt from the provisions of Section 2-70.

5 (35-5) ~~(36)~~ Food for human consumption that is to be
6 consumed off the premises where it is sold (other than
7 alcoholic beverages, soft drinks, and food that has been
8 prepared for immediate consumption) and prescription and
9 nonprescription medicines, drugs, medical appliances, and
10 insulin, urine testing materials, syringes, and needles used
11 by diabetics, for human use, when purchased for use by a
12 person receiving medical assistance under Article 5 of the
13 Illinois Public Aid Code who resides in a licensed long-term
14 care facility, as defined in the Nursing Home Care Act.

15 (36) Beginning August 2, 2001 ~~on-the-effective-date-of~~
16 ~~this-amendatory-Act-of-the-92nd-General--Assembly~~, computers
17 and communications equipment utilized for any hospital
18 purpose and equipment used in the diagnosis, analysis, or
19 treatment of hospital patients sold to a lessor who leases
20 the equipment, under a lease of one year or longer executed
21 or in effect at the time of the purchase, to a hospital that
22 has been issued an active tax exemption identification number
23 by the Department under Section 1g of this Act. This
24 paragraph is exempt from the provisions of Section 2-70.

25 (37) Beginning August 2, 2001 ~~on-the-effective-date-of~~
26 ~~this-amendatory-Act-of-the-92nd--General--Assembly~~, personal
27 property sold to a lessor who leases the property, under a
28 lease of one year or longer executed or in effect at the time
29 of the purchase, to a governmental body that has been issued
30 an active tax exemption identification number by the
31 Department under Section 1g of this Act. This paragraph is
32 exempt from the provisions of Section 2-70.

33 (38) Beginning on January 1, 2002, tangible personal
34 property purchased from an Illinois retailer by a taxpayer

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

22 (39) Beginning January 1, 2004 and ending December 31,
23 2006, automated external defibrillators purchased by a
24 physical fitness facility for the purpose of complying with
25 the Physical Fitness Facility Medical Emergency Preparedness
26 Act, up to a maximum exemption of \$300 per year. For
27 purposes of this paragraph (39), "physical fitness facility"
28 is defined as in the Physical Fitness Facility Medical
29 Emergency Preparedness Act, except that the term does not
30 include any facility that is owned or operated by a unit of
31 local government or a public school, college, or university.

32 (Source: P.A. 91-51, eff. 6-30-99; 91-200, eff. 7-20-99;
33 91-439, eff. 8-6-99; 91-533, eff. 8-13-99; 91-637, eff.
34 8-20-99; 91-644, eff. 8-20-99; 92-16, eff. 6-28-01; 92-35,

1 eff. 7-1-01; 92-227, eff. 8-2-01; 92-337, eff. 8-10-01;
2 92-484, eff. 8-23-01; 92-488, eff. 8-23-01; 92-651, eff.
3 7-11-02; 92-680, eff. 7-16-02; revised 1-26-03.)".