

1 AN ACT in relation to health, which may be known as the
2 Colleen O'Sullivan Law.

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

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

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

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

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

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

17 Section 5.20. Medical emergency. "Medical emergency"
18 means the occurrence of a sudden, serious, and unexpected
19 sickness or injury that would lead a reasonable person,
20 possessing an average knowledge of medicine and health, to
21 believe that the sick or injured person requires urgent or
22 unscheduled medical care.

23 Section 5.25. Physical fitness facility.

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

25 (1) Any of the following that is (i) owned or
26 operated by a park district, municipality, or other unit

1 of local government or by a public or private elementary
 2 or secondary school, college, university, or technical or
 3 trade school and (ii) supervised by one or more persons
 4 employed by the unit of local government, school,
 5 college, or university for the purpose of supervising the
 6 use of the facility: swimming pool; stadium; athletic
 7 field; track and field facility; tennis court; basketball
 8 court; or volleyball court.

9 (2) A golf course.

10 (3) Except as provided in subsection (b), any other
 11 establishment, whether public or private, that provides
 12 services or facilities for preserving, maintaining,
 13 encouraging, or developing physical fitness or
 14 well-being, including an establishment designated as a
 15 "health club", "fitness club", or "exercise gym" or by
 16 any other term of similar import.

17 (b) "Physical fitness facility" does not include a
 18 facility located in a hospital or in a hotel or motel. The
 19 term also does not include any facility that does not employ
 20 any persons to provide instruction, training, or assistance
 21 for persons using the facility.

22 Section 10. Medical emergency plan required.

23 (a) Before July 1, 2004, every physical fitness facility
 24 must adopt and implement a written plan for responding to
 25 medical emergencies that occur at the facility during the
 26 time that the facility is open for use by its members or by
 27 the public. The plan must comply with this Act and rules
 28 adopted by the Department to implement this Act. The facility
 29 must file a copy of the plan with the Department.

30 (b) Whenever there is a change in the structure occupied
 31 by the facility or in the services provided or offered by the
 32 facility that would materially affect the facility's ability
 33 to respond to a medical emergency, the facility must promptly

1 update its plan developed under subsection (a) and must file
2 a copy of the updated plan with the Department.

3 Section 15. Automated external defibrillator required.

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

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

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

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

22 (c) Every physical fitness facility must ensure that
23 every AED on the facility's premises is properly tested and
24 maintained in accordance with rules adopted by the
25 Department.

26 Section 20. Training. The Department shall adopt rules
27 to establish programs to train physical fitness facility
28 staff on the role of cardiopulmonary resuscitation and the
29 use of automated external defibrillators. The rules must be
30 consistent with those adopted by the Department for training
31 AED users under the Automated External Defibrillator Act.

1 Section 25. Economic incentives.

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

7 (b) A private physical fitness facility that purchases
8 an automated external defibrillator in order to comply with
9 this Act is eligible for a tax exemption as provided in
10 Section 3-5 of the Use Tax Act, Section 3-5 of the Service
11 Use Tax Act, Section 3-5 of the Service Occupation Tax Act,
12 and Section 2-5 of the Retailers' Occupation Tax Act.

13 Section 30. Inspections. The Department shall inspect a
14 physical fitness facility in response to a complaint filed
15 with the Department alleging a violation of this Act. For the
16 purpose of ensuring compliance with this Act, the Department
17 may inspect a physical fitness facility at other times in
18 accordance with rules adopted by the Department.

19 Section 35. Penalties for violations.

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

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

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

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

32 (b) The Director may impose a civil penalty under this

1 Section only after it provides the following to the facility:

2 (1) Written notice of the alleged violation.

3 (2) Written notice of the facility's right to
4 request an administrative hearing on the question of the
5 alleged violation.

6 (3) An opportunity to present evidence, orally or
7 in writing or both, on the question of the alleged
8 violation before an impartial hearing examiner appointed
9 by the Director.

10 (4) A written decision from the Director, based on
11 the evidence introduced at the hearing and the hearing
12 examiner's recommendations, finding that the facility
13 violated this Act and imposing the civil penalty.

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

17 Section 40. Rules. The Department shall adopt rules to
18 implement this Act.

19 Section 45. Liability. Nothing in this Act shall be
20 construed to either limit or expand the exemptions from civil
21 liability in connection with the purchase or use of an
22 automated external defibrillator that are provided under the
23 Automated External Defibrillator Act or under any other
24 provision of law.

25 Section 50. Compliance dates; private and public
26 physical fitness facilities.

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

30 (b) Publicly owned physical fitness facilities. A
31 public entity owning or operating 4 or fewer physical fitness

1 facilities must have at least one such facility in compliance
 2 with this Act on or before July 1, 2004; its second facility
 3 in compliance by July 1, 2005; its third facility in
 4 compliance by July 1, 2006; and its fourth facility in
 5 compliance by July 1, 2007. Any public entity owning or
 6 operating more than 4 physical fitness facilities must have
 7 25% of its facilities in compliance by July 1, 2004; 50% of
 8 its facilities in compliance by July 1, 2005; 75% of its
 9 facilities in compliance by July 1, 2006; and 100% of its
 10 facilities in compliance by July 1, 2007.

11 Section 88. The State Mandates Act is amended by adding
 12 Section 8.27 as follows:

13 (30 ILCS 805/8.27 new)

14 Sec. 8.27. Exempt mandate. Notwithstanding Sections 6
 15 and 8 of this Act, no reimbursement by the State is required
 16 for the implementation of any mandate created by this
 17 amendatory Act of the 93rd General Assembly.

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

20 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

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

30 (2) Personal property purchased by a not-for-profit

1 Illinois county fair association for use in conducting,
2 operating, or promoting the county fair.

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

18 (4) Personal property purchased by a governmental body,
19 by a corporation, society, association, foundation, or
20 institution organized and operated exclusively for
21 charitable, religious, or educational purposes, or by a
22 not-for-profit corporation, society, association, foundation,
23 institution, or organization that has no compensated officers
24 or employees and that is organized and operated primarily for
25 the recreation of persons 55 years of age or older. A limited
26 liability company may qualify for the exemption under this
27 paragraph only if the limited liability company is organized
28 and operated exclusively for educational purposes. On and
29 after July 1, 1987, however, no entity otherwise eligible for
30 this exemption shall make tax-free purchases unless it has an
31 active exemption identification number issued by the
32 Department.

33 (5) A passenger car that is a replacement vehicle to the
34 extent that the purchase price of the car is subject to the

1 Replacement Vehicle Tax.

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

11 (7) Farm chemicals.

12 (8) Legal tender, currency, medallions, or gold or
13 silver coinage issued by the State of Illinois, the
14 government of the United States of America, or the government
15 of any foreign country, and bullion.

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

19 (10) A motor vehicle of the first division, a motor
20 vehicle of the second division that is a self-contained motor
21 vehicle designed or permanently converted to provide living
22 quarters for recreational, camping, or travel use, with
23 direct walk through to the living quarters from the driver's
24 seat, or a motor vehicle of the second division that is of
25 the van configuration designed for the transportation of not
26 less than 7 nor more than 16 passengers, as defined in
27 Section 1-146 of the Illinois Vehicle Code, that is used for
28 automobile renting, as defined in the Automobile Renting
29 Occupation and Use Tax Act.

30 (11) Farm machinery and equipment, both new and used,
31 including that manufactured on special order, certified by
32 the purchaser to be used primarily for production agriculture
33 or State or federal agricultural programs, including
34 individual replacement parts for the machinery and equipment,

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

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

23 Farm machinery and equipment also includes computers,
24 sensors, software, and related equipment used primarily in
25 the computer-assisted operation of production agriculture
26 facilities, equipment, and activities such as, but not
27 limited to, the collection, monitoring, and correlation of
28 animal and crop data for the purpose of formulating animal
29 diets and agricultural chemicals. This item (11) is exempt
30 from the provisions of Section 3-90.

31 (12) Fuel and petroleum products sold to or used by an
32 air common carrier, certified by the carrier to be used for
33 consumption, shipment, or storage in the conduct of its
34 business as an air common carrier, for a flight destined for

1 or returning from a location or locations outside the United
2 States without regard to previous or subsequent domestic
3 stopovers.

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

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

21 (15) Photoprocessing machinery and equipment, including
22 repair and replacement parts, both new and used, including
23 that manufactured on special order, certified by the
24 purchaser to be used primarily for photoprocessing, and
25 including photoprocessing machinery and equipment purchased
26 for lease.

27 (16) Coal exploration, mining, offhighway hauling,
28 processing, maintenance, and reclamation equipment, including
29 replacement parts and equipment, and including equipment
30 purchased for lease, but excluding motor vehicles required to
31 be registered under the Illinois Vehicle Code.

32 (17) Distillation machinery and equipment, sold as a
33 unit or kit, assembled or installed by the retailer,
34 certified by the user to be used only for the production of

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

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

15 (19) Personal property delivered to a purchaser or
16 purchaser's donee inside Illinois when the purchase order for
17 that personal property was received by a florist located
18 outside Illinois who has a florist located inside Illinois
19 deliver the personal property.

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

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

28 (22) Computers and communications equipment utilized for
29 any hospital purpose and equipment used in the diagnosis,
30 analysis, or treatment of hospital patients purchased by a
31 lessor who leases the equipment, under a lease of one year or
32 longer executed or in effect at the time the lessor would
33 otherwise be subject to the tax imposed by this Act, to a
34 hospital that has been issued an active tax exemption

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

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

1 amount from the lessor. If, however, that amount is not
2 refunded to the lessee for any reason, the lessor is liable
3 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
7 for disaster relief to be used in a State or federally
8 declared disaster area in Illinois or bordering Illinois by a
9 manufacturer or retailer that is registered in this State to
10 a corporation, society, association, foundation, or
11 institution that has been issued a sales tax exemption
12 identification number by the Department that assists victims
13 of the disaster 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
17 the performance of infrastructure repairs in this State,
18 including but not limited to municipal roads and streets,
19 access roads, bridges, sidewalks, waste disposal systems,
20 water and sewer line extensions, water distribution and
21 purification facilities, storm water drainage and retention
22 facilities, and sewage treatment facilities, resulting from a
23 State or federally declared disaster in Illinois or bordering
24 Illinois when such repairs are initiated on facilities
25 located in the declared disaster area within 6 months after
26 the disaster.

27 (26) Beginning July 1, 1999, game or game birds
28 purchased at a "game breeding and hunting preserve area" or
29 an "exotic game hunting area" as those terms are used in the
30 Wildlife Code or at a hunting enclosure approved through
31 rules adopted by the Department of Natural Resources. This
32 paragraph is exempt from the provisions of Section 3-90.

33 (27) A motor vehicle, as that term is defined in Section
34 1-146 of the Illinois Vehicle Code, that is donated to a

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

18 (28) Beginning January 1, 2000, personal property,
19 including food, purchased through fundraising events for the
20 benefit of a public or private elementary or secondary
21 school, a group of those schools, or one or more school
22 districts if the events are sponsored by an entity recognized
23 by the school district that consists primarily of volunteers
24 and includes parents and teachers of the school children.
25 This paragraph does not apply to fundraising events (i) for
26 the benefit of private home instruction or (ii) for which the
27 fundraising entity purchases the personal property sold at
28 the events from another individual or entity that sold the
29 property for the purpose of resale by the fundraising entity
30 and that profits from the sale to the fundraising entity.
31 This paragraph is exempt from the provisions of Section 3-90.

32 (29) Beginning January 1, 2000 and through December 31,
33 2001, new or used automatic vending machines that prepare and
34 serve hot food and beverages, including coffee, soup, and

1 other items, and replacement parts for these machines.
2 Beginning January 1, 2002, machines and parts for machines
3 used in commercial, coin-operated amusement and vending
4 business if a use or occupation tax is paid on the gross
5 receipts derived from the use of the commercial,
6 coin-operated amusement and vending machines. This paragraph
7 is exempt from the provisions of Section 3-90.

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

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

1 purports to reimburse that lessor for the tax imposed by this
2 Act or the Service Use Tax Act, as the case may be, if the
3 tax has not been paid by the lessor. If a lessor improperly
4 collects any such amount from the lessee, the lessee shall
5 have a legal right to claim a refund of that amount from the
6 lessor. If, however, that amount is not refunded to the
7 lessee for any reason, the lessor is liable to pay that
8 amount to the Department. This paragraph is exempt from the
9 provisions of Section 3-90.

10 (32) Beginning on the effective date of this amendatory
11 Act of the 92nd General Assembly, personal property purchased
12 by a lessor who leases the property, under a lease of one
13 year or longer executed or in effect at the time the lessor
14 would otherwise be subject to the tax imposed by this Act, to
15 a governmental body that has been issued an active sales tax
16 exemption identification number by the Department under
17 Section 1g of the Retailers' Occupation Tax Act. If the
18 property is leased in a manner that does not qualify for this
19 exemption or used in any other nonexempt manner, the lessor
20 shall be liable for the tax imposed under this Act or the
21 Service Use Tax Act, as the case may be, based on the fair
22 market value of the property at the time the nonqualifying
23 use occurs. No lessor shall collect or attempt to collect an
24 amount (however designated) that purports to reimburse that
25 lessor for the tax imposed by this Act or the Service Use Tax
26 Act, as the case may be, if the tax has not been paid by the
27 lessor. If a lessor improperly collects any such amount from
28 the lessee, the lessee shall have a legal right to claim a
29 refund of that amount from the lessor. If, however, that
30 amount is not refunded to the lessee for any reason, the
31 lessor is liable to pay that amount to the Department. This
32 paragraph is exempt from the provisions of Section 3-90.

33 (33) Beginning January 1, 2004 and ending December 31,
34 2006, automated external defibrillators purchased by a

1 physical fitness facility for the purpose of complying with
 2 the Physical Fitness Facility Medical Emergency Preparedness
 3 Act, up to a maximum exemption of \$300 per year. For purposes
 4 of this paragraph (33), "physical fitness facility" is
 5 defined as in the Physical Fitness Facility Medical Emergency
 6 Preparedness Act, except that the term does not include any
 7 facility that is owned or operated by a unit of local
 8 government or a public school, college, or university.

9 (Source: P.A. 91-51, eff. 6-30-99; 91-200, eff. 7-20-99;
 10 91-439, eff. 8-6-99; 91-637, eff. 8-20-99; 91-644, eff.
 11 8-20-99; 91-901, eff. 1-1-01; 92-35, eff. 7-1-01; 92-227,
 12 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
 13 92-651, eff. 7-11-02.)

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

16 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

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

19 (1) Personal property purchased from a corporation,
 20 society, association, foundation, institution, or
 21 organization, other than a limited liability company, that is
 22 organized and operated as a not-for-profit service enterprise
 23 for the benefit of persons 65 years of age or older if the
 24 personal property was not purchased by the enterprise for the
 25 purpose of resale by the enterprise.

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

29 (3) Personal property purchased by a not-for-profit arts
 30 or cultural organization that establishes, by proof required
 31 by the Department by rule, that it has received an exemption
 32 under Section 501(c)(3) of the Internal Revenue Code and that

1 is organized and operated primarily for the presentation or
2 support of arts or cultural programming, activities, or
3 services. These organizations include, but are not limited
4 to, music and dramatic arts organizations such as symphony
5 orchestras and theatrical groups, arts and cultural service
6 organizations, local arts councils, visual arts
7 organizations, and media arts organizations. On and after the
8 effective date of this amendatory Act of the 92nd General
9 Assembly, however, an entity otherwise eligible for this
10 exemption shall not make tax-free purchases unless it has an
11 active identification number issued by the Department.

12 (4) Legal tender, currency, medallions, or gold or
13 silver coinage issued by the State of Illinois, the
14 government of the United States of America, or the government
15 of any foreign country, and bullion.

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

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

27 (7) Farm machinery and equipment, both new and used,
28 including that manufactured on special order, certified by
29 the purchaser to be used primarily for production agriculture
30 or State or federal agricultural programs, including
31 individual replacement parts for the machinery and equipment,
32 including machinery and equipment purchased for lease, and
33 including implements of husbandry defined in Section 1-130 of
34 the Illinois Vehicle Code, farm machinery and agricultural

1 chemical and fertilizer spreaders, and nurse wagons required
2 to be registered under Section 3-809 of the Illinois Vehicle
3 Code, but excluding other motor vehicles required to be
4 registered under the Illinois Vehicle Code. Horticultural
5 polyhouses or hoop houses used for propagating, growing, or
6 overwintering plants shall be considered farm machinery and
7 equipment under this item (7). Agricultural chemical tender
8 tanks and dry boxes shall include units sold separately from
9 a motor vehicle required to be licensed and units sold
10 mounted on a motor vehicle required to be licensed if the
11 selling price of the tender is separately stated.

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

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

28 (8) Fuel and petroleum products sold to or used by an
29 air common carrier, certified by the carrier to be used for
30 consumption, shipment, or storage in the conduct of its
31 business as an air common carrier, for a flight destined for
32 or returning from a location or locations outside the United
33 States without regard to previous or subsequent domestic
34 stopovers.

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

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

19 (11) Proceeds from the sale of photoprocessing machinery
20 and equipment, including repair and replacement parts, both
21 new and used, including that manufactured on special order,
22 certified by the purchaser to be used primarily for
23 photoprocessing, and including photoprocessing machinery and
24 equipment purchased for lease.

25 (12) Coal exploration, mining, offhighway hauling,
26 processing, maintenance, and reclamation equipment, including
27 replacement parts and equipment, and including equipment
28 purchased for lease, but excluding motor vehicles required to
29 be registered under the Illinois Vehicle Code.

30 (13) Semen used for artificial insemination of livestock
31 for direct agricultural production.

32 (14) Horses, or interests in horses, registered with and
33 meeting the requirements of any of the Arabian Horse Club
34 Registry of America, Appaloosa Horse Club, American Quarter

1 Horse Association, United States Trotting Association, or
2 Jockey Club, as appropriate, used for purposes of breeding or
3 racing for prizes.

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

27 (16) Personal property purchased by a lessor who leases
28 the property, under a lease of one year or longer executed or
29 in effect at the time the lessor would otherwise be subject
30 to the tax imposed by this Act, to a governmental body that
31 has been issued an active tax exemption identification number
32 by the Department under Section 1g of the Retailers'
33 Occupation Tax Act. If the property is leased in a manner
34 that does not qualify for this exemption or is used in any

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

14 (17) 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 donated
17 for disaster relief to be used in a State or federally
18 declared disaster area in Illinois or bordering Illinois by a
19 manufacturer or retailer that is registered in this State to
20 a corporation, society, association, foundation, or
21 institution that has been issued a sales tax exemption
22 identification number by the Department that assists victims
23 of the disaster who reside within the declared disaster area.

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

1 located in the declared disaster area within 6 months after
2 the disaster.

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

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

28 (21) Beginning January 1, 2000, personal property,
29 including food, purchased through fundraising events for the
30 benefit of a public or private elementary or secondary
31 school, a group of those schools, or one or more school
32 districts if the events are sponsored by an entity recognized
33 by the school district that consists primarily of volunteers
34 and includes parents and teachers of the school children.

1 This paragraph does not apply to fundraising events (i) for
2 the benefit of private home instruction or (ii) for which the
3 fundraising entity purchases the personal property sold at
4 the events from another individual or entity that sold the
5 property for the purpose of resale by the fundraising entity
6 and that profits from the sale to the fundraising entity.
7 This paragraph is exempt from the provisions of Section 3-75.

8 (22) Beginning January 1, 2000 and through December 31,
9 2001, new or used automatic vending machines that prepare and
10 serve hot food and beverages, including coffee, soup, and
11 other items, and replacement parts for these machines.
12 Beginning January 1, 2002, machines and parts for machines
13 used in commercial, coin-operated amusement and vending
14 business if a use or occupation tax is paid on the gross
15 receipts derived from the use of the commercial,
16 coin-operated amusement and vending machines. This paragraph
17 is exempt from the provisions of Section 3-75.

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

28 (24) Beginning on the effective date of this
29 amendatory Act of the 92nd General Assembly, computers and
30 communications equipment utilized for any hospital purpose
31 and equipment used in the diagnosis, analysis, or treatment
32 of hospital patients purchased by a lessor who leases the
33 equipment, under a lease of one year or longer executed or in
34 effect at the time the lessor would otherwise be subject to

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

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

1 lessor for the tax imposed by this Act or the Use Tax Act, as
2 the case may be, if the tax has not been paid by the lessor.
3 If a lessor improperly collects any such amount from the
4 lessee, the lessee shall have a legal right to claim a refund
5 of that amount from the lessor. If, however, that amount is
6 not refunded to the lessee for any reason, the lessor is
7 liable to pay that amount to the Department. This paragraph
8 is exempt from the provisions of Section 3-75.

9 (26) Beginning January 1, 2004 and ending December 31,
10 2006, automated external defibrillators purchased by a
11 physical fitness facility for the purpose of complying with
12 the Physical Fitness Facility Medical Emergency Preparedness
13 Act, up to a maximum exemption of \$300 per year. For purposes
14 of this paragraph (26), "physical fitness facility" is
15 defined as in the Physical Fitness Facility Medical Emergency
16 Preparedness Act, except that the term does not include any
17 facility that is owned or operated by a unit of local
18 government or a public school, college, or university.

19 (Source: P.A. 91-51, eff. 6-30-99; 91-200, eff. 7-20-99;
20 91-439, eff. 8-6-99; 91-637, eff. 8-20-99; 91-644, eff.
21 8-20-99; 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
22 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
23 92-651, eff. 7-11-02.)

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

26 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

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

29 (1) 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

1 benefit of persons 65 years of age or older if the personal
2 property was not purchased by the enterprise for the purpose
3 of resale by the enterprise.

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

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

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

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

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

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

3 (7) 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 (7). 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 (7) is exempt
3 from the provisions of Section 3-55.

4 (8) 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 (9) Proceeds of mandatory service charges separately
12 stated on customers' bills for the purchase and consumption
13 of 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 (10) 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 (11) 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 (12) 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 (13) Food for human consumption that is to be consumed
6 off the premises where it is sold (other than alcoholic
7 beverages, soft drinks and food that has been prepared for
8 immediate consumption) and prescription and non-prescription
9 medicines, drugs, medical appliances, and insulin, urine
10 testing materials, syringes, and needles used by diabetics,
11 for human use, when purchased for use by a person receiving
12 medical assistance under Article 5 of the Illinois Public Aid
13 Code who resides in a licensed long-term care facility, as
14 defined in the Nursing Home Care Act.

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

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

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

31 (17) Personal property sold to a lessor who leases the
32 property, under a lease of one year or longer executed or in
33 effect at the time of the purchase, to a governmental body
34 that has been issued an active tax exemption identification

1 number by the Department under Section 1g of the Retailers'
2 Occupation Tax Act.

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

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

26 (20) Beginning July 1, 1999, game or game birds sold at
27 a "game breeding and hunting preserve area" or an "exotic
28 game hunting area" as those terms are used in the Wildlife
29 Code or at a hunting enclosure approved through rules adopted
30 by the Department of Natural Resources. This paragraph is
31 exempt from the provisions of Section 3-55.

32 (21) A motor vehicle, as that term is defined in Section
33 1-146 of the Illinois Vehicle Code, that is donated to a
34 corporation, limited liability company, society, association,

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

17 (22) Beginning January 1, 2000, personal property,
18 including food, purchased through fundraising events for the
19 benefit of a public or private elementary or secondary
20 school, a group of those schools, or one or more school
21 districts if the events are sponsored by an entity recognized
22 by the school district that consists primarily of volunteers
23 and includes parents and teachers of the school children.
24 This paragraph does not apply to fundraising events (i) for
25 the benefit of private home instruction or (ii) for which the
26 fundraising entity purchases the personal property sold at
27 the events from another individual or entity that sold the
28 property for the purpose of resale by the fundraising entity
29 and that profits from the sale to the fundraising entity.
30 This paragraph is exempt from the provisions of Section 3-55.

31 (23) Beginning January 1, 2000 and through December 31,
32 2001, new or used automatic vending machines that prepare and
33 serve hot food and beverages, including coffee, soup, and
34 other items, and replacement parts for these machines.

1 Beginning January 1, 2002, machines and parts for machines
2 used in commercial, coin-operated amusement and vending
3 business if a use or occupation tax is paid on the gross
4 receipts derived from the use of the commercial,
5 coin-operated amusement and vending machines. This paragraph
6 is exempt from the provisions of Section 3-55.

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

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

26 (26) Beginning on January 1, 2002, tangible personal
27 property purchased from an Illinois retailer by a taxpayer
28 engaged in centralized purchasing activities in Illinois who
29 will, upon receipt of the property in Illinois, temporarily
30 store the property in Illinois (i) for the purpose of
31 subsequently transporting it outside this State for use or
32 consumption thereafter solely outside this State or (ii) for
33 the purpose of being processed, fabricated, or manufactured
34 into, attached to, or incorporated into other tangible

1 personal property to be transported outside this State and
2 thereafter used or consumed solely outside this State. The
3 Director of Revenue shall, pursuant to rules adopted in
4 accordance with the Illinois Administrative Procedure Act,
5 issue a permit to any taxpayer in good standing with the
6 Department who is eligible for the exemption under this
7 paragraph (26). The permit issued under this paragraph (26)
8 shall authorize the holder, to the extent and in the manner
9 specified in the rules adopted under this Act, to purchase
10 tangible personal property from a retailer exempt from the
11 taxes imposed by this Act. Taxpayers shall maintain all
12 necessary books and records to substantiate the use and
13 consumption of all such tangible personal property outside of
14 the State of Illinois.

15 (27) Beginning January 1, 2004 and ending December 31,
16 2006, automated external defibrillators purchased by a
17 physical fitness facility for the purpose of complying with
18 the Physical Fitness Facility Medical Emergency Preparedness
19 Act, up to a maximum exemption of \$300 per year. For purposes
20 of this paragraph (27), "physical fitness facility" is
21 defined as in the Physical Fitness Facility Medical Emergency
22 Preparedness Act, except that the term does not include any
23 facility that is owned or operated by a unit of local
24 government or a public school, college, or university.

25 (Source: P.A. 91-51, eff. 6-30-99; 91-200, eff. 7-20-99;
26 91-439, eff. 8-6-99; 91-533, eff. 8-13-99; 91-637, eff.
27 8-20-99; 91-644, eff. 8-20-99; 92-16, eff. 6-28-01; 92-35,
28 eff. 7-1-01; 92-227, eff. 8-2-01; 92-337, eff. 8-10-01;
29 92-484, eff. 8-23-01; 92-488, eff. 8-23-01; 92-651, eff.
30 7-11-02.)

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

1 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

5 (1) Farm chemicals.

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

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

33 Farm machinery and equipment also includes computers,
34 sensors, software, and related equipment used primarily in

1 the computer-assisted operation of production agriculture
2 facilities, equipment, and activities such as, but not
3 limited to, the collection, monitoring, and correlation of
4 animal and crop data for the purpose of formulating animal
5 diets and agricultural chemicals. This item (7) is exempt
6 from the provisions of Section 2-70.

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

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

21 (5) A motor vehicle of the first division, a motor
22 vehicle of the second division that is a self-contained motor
23 vehicle designed or permanently converted to provide living
24 quarters for recreational, camping, or travel use, with
25 direct walk through access to the living quarters from the
26 driver's seat, or a motor vehicle of the second division that
27 is of the van configuration designed for the transportation
28 of not less than 7 nor more than 16 passengers, as defined in
29 Section 1-146 of the Illinois Vehicle Code, that is used for
30 automobile renting, as defined in the Automobile Renting
31 Occupation and Use Tax Act.

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

1 (7) Proceeds of that portion of the selling price of a
2 passenger car the sale of which is subject to the Replacement
3 Vehicle Tax.

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

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

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

29 (11) Personal property sold to a governmental body, to a
30 corporation, society, association, foundation, or institution
31 organized and operated exclusively for charitable, religious,
32 or educational purposes, or to a not-for-profit corporation,
33 society, association, foundation, institution, or
34 organization that has no compensated officers or employees

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

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

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

26 (14) Machinery and equipment that will be used by the
27 purchaser, or a lessee of the purchaser, primarily in the
28 process of manufacturing or assembling tangible personal
29 property for wholesale or retail sale or lease, whether the
30 sale or lease is made directly by the manufacturer or by some
31 other person, whether the materials used in the process are
32 owned by the manufacturer or some other person, or whether
33 the sale or lease is made apart from or as an incident to the
34 seller's engaging in the service occupation of producing

1 machines, tools, dies, jigs, patterns, gauges, or other
2 similar items of no commercial value on special order for a
3 particular purchaser.

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

12 (16) Petroleum products sold to a purchaser if the
13 seller is prohibited by federal law from charging tax to the
14 purchaser.

15 (17) Tangible personal property sold to a common carrier
16 by rail or motor that receives the physical possession of the
17 property in Illinois and that transports the property, or
18 shares with another common carrier in the transportation of
19 the property, out of Illinois on a standard uniform bill of
20 lading showing the seller of the property as the shipper or
21 consignor of the property to a destination outside Illinois,
22 for use outside Illinois.

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

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

1 required to be registered under the Illinois Vehicle Code.

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

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

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

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

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

30 (25) A motor vehicle sold in this State to a nonresident
31 even though the motor vehicle is delivered to the nonresident
32 in this State, if the motor vehicle is not to be titled in
33 this State, and if a drive-away permit is issued to the motor
34 vehicle as provided in Section 3-603 of the Illinois Vehicle

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

7 (26) Semen used for artificial insemination of livestock
8 for direct agricultural production.

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

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

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

28 (30) Beginning with taxable years ending on or after
29 December 31, 1995 and ending with taxable years ending on or
30 before December 31, 2004, personal property that is donated
31 for disaster relief to be used in a State or federally
32 declared disaster area in Illinois or bordering Illinois by a
33 manufacturer or retailer that is registered in this State to
34 a corporation, society, association, foundation, or

1 institution that has been issued a sales tax exemption
2 identification number by the Department that assists victims
3 of the disaster who reside within the declared disaster area.

4 (31) 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 used in
7 the performance of infrastructure repairs in this State,
8 including but not limited to municipal roads and streets,
9 access roads, bridges, sidewalks, waste disposal systems,
10 water and sewer line extensions, water distribution and
11 purification facilities, storm water drainage and retention
12 facilities, and sewage treatment facilities, resulting from a
13 State or federally declared disaster in Illinois or bordering
14 Illinois when such repairs are initiated on facilities
15 located in the declared disaster area within 6 months after
16 the disaster.

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

23 (33) A motor vehicle, as that term is defined in Section
24 1-146 of the Illinois Vehicle Code, that is donated to a
25 corporation, limited liability company, society, association,
26 foundation, or institution that is determined by the
27 Department to be organized and operated exclusively for
28 educational purposes. For purposes of this exemption, "a
29 corporation, limited liability company, society, association,
30 foundation, or institution organized and operated exclusively
31 for educational purposes" means all tax-supported public
32 schools, private schools that offer systematic instruction in
33 useful branches of learning by methods common to public
34 schools and that compare favorably in their scope and

1 intensity with the course of study presented in tax-supported
2 schools, and vocational or technical schools or institutes
3 organized and operated exclusively to provide a course of
4 study of not less than 6 weeks duration and designed to
5 prepare individuals to follow a trade or to pursue a manual,
6 technical, mechanical, industrial, business, or commercial
7 occupation.

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

22 (35) Beginning January 1, 2000 and through December 31,
23 2001, new or used automatic vending machines that prepare and
24 serve hot food and beverages, including coffee, soup, and
25 other items, and replacement parts for these machines.
26 Beginning January 1, 2002, machines and parts for machines
27 used in commercial, coin-operated amusement and vending
28 business if a use or occupation tax is paid on the gross
29 receipts derived from the use of the commercial,
30 coin-operated amusement and vending machines. This paragraph
31 is exempt from the provisions of Section 2-70.

32 (35-5) ~~(36)~~ Food for human consumption that is to be
33 consumed off the premises where it is sold (other than
34 alcoholic beverages, soft drinks, and food that has been

1 prepared for immediate consumption) and prescription and
2 nonprescription medicines, drugs, medical appliances, and
3 insulin, urine testing materials, syringes, and needles used
4 by diabetics, for human use, when purchased for use by a
5 person receiving medical assistance under Article 5 of the
6 Illinois Public Aid Code who resides in a licensed long-term
7 care facility, as defined in the Nursing Home Care Act.

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

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

26 (38) Beginning on January 1, 2002, tangible personal
27 property purchased from an Illinois retailer by a taxpayer
28 engaged in centralized purchasing activities in Illinois who
29 will, upon receipt of the property in Illinois, temporarily
30 store the property in Illinois (i) for the purpose of
31 subsequently transporting it outside this State for use or
32 consumption thereafter solely outside this State or (ii) for
33 the purpose of being processed, fabricated, or manufactured
34 into, attached to, or incorporated into other tangible

1 personal property to be transported outside this State and
2 thereafter used or consumed solely outside this State. The
3 Director of Revenue shall, pursuant to rules adopted in
4 accordance with the Illinois Administrative Procedure Act,
5 issue a permit to any taxpayer in good standing with the
6 Department who is eligible for the exemption under this
7 paragraph (38). The permit issued under this paragraph (38)
8 shall authorize the holder, to the extent and in the manner
9 specified in the rules adopted under this Act, to purchase
10 tangible personal property from a retailer exempt from the
11 taxes imposed by this Act. Taxpayers shall maintain all
12 necessary books and records to substantiate the use and
13 consumption of all such tangible personal property outside of
14 the State of Illinois.

15 (39) Beginning January 1, 2004 and ending December 31,
16 2006, automated external defibrillators purchased by a
17 physical fitness facility for the purpose of complying with
18 the Physical Fitness Facility Medical Emergency Preparedness
19 Act, up to a maximum exemption of \$300 per year. For
20 purposes of this paragraph (39), "physical fitness facility"
21 is defined as in the Physical Fitness Facility Medical
22 Emergency Preparedness Act, except that the term does not
23 include any facility that is owned or operated by a unit of
24 local government or a public school, college, or university.

25 (Source: P.A. 91-51, eff. 6-30-99; 91-200, eff. 7-20-99;
26 91-439, eff. 8-6-99; 91-533, eff. 8-13-99; 91-637, eff.
27 8-20-99; 91-644, eff. 8-20-99; 92-16, eff. 6-28-01; 92-35,
28 eff. 7-1-01; 92-227, eff. 8-2-01; 92-337, eff. 8-10-01;
29 92-484, eff. 8-23-01; 92-488, eff. 8-23-01; 92-651, eff.
30 7-11-02; 92-680, eff. 7-16-02; revised 1-26-03.)