



Rep. Careen Gordon

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1 AMENDMENT TO SENATE BILL 1936

2 AMENDMENT NO. _____. Amend Senate Bill 1936 by replacing
3 everything after the enacting clause with the following:

4 "(35 ILCS 5/215 rep.)

5 Section 5. The Illinois Income Tax Act is amended by
6 repealing Section 215.

7 Section 10. The Use Tax Act is amended by changing Sections
8 3-5 and 3-61 as follows:

9 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

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

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

22 (3) Personal property purchased by a not-for-profit arts or
23 cultural organization that establishes, by proof required by

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

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

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

31 (6) Until July 1, 2003, graphic arts machinery and
32 equipment, including repair and replacement parts, both new and
33 used, and including that manufactured on special order,
34 certified by the purchaser to be used primarily for graphic

1 arts production, and including machinery and equipment
2 purchased for lease. Equipment includes chemicals or chemicals
3 acting as catalysts but only if the chemicals or chemicals
4 acting as catalysts effect a direct and immediate change upon a
5 graphic arts product.

6 (7) Farm chemicals.

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

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

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

25 (11) Farm machinery and equipment, both new and used,
26 including that manufactured on special order, certified by the
27 purchaser to be used primarily for production agriculture or
28 State or federal agricultural programs, including individual
29 replacement parts for the machinery and equipment, including
30 machinery and equipment purchased for lease, and including
31 implements of husbandry defined in Section 1-130 of the
32 Illinois Vehicle Code, farm machinery and agricultural
33 chemical and fertilizer spreaders, and nurse wagons required to
34 be registered under Section 3-809 of the Illinois Vehicle Code,

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

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

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

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

33 (13) Proceeds of mandatory service charges separately
34 stated on customers' bills for the purchase and consumption of

1 food and beverages purchased at retail from a retailer, to the
2 extent that the proceeds of the service charge are in fact
3 turned over as tips or as a substitute for tips to the
4 employees who participate directly in preparing, serving,
5 hosting or cleaning up the food or beverage function with
6 respect to which the service charge is imposed.

7 (14) Until July 1, 2003, oil field exploration, drilling,
8 and production equipment, including (i) rigs and parts of rigs,
9 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
10 tubular goods, including casing and drill strings, (iii) pumps
11 and pump-jack units, (iv) storage tanks and flow lines, (v) any
12 individual replacement part for oil field exploration,
13 drilling, and production equipment, and (vi) machinery and
14 equipment purchased for lease; but excluding motor vehicles
15 required to be registered under the Illinois Vehicle Code.

16 (15) Photoprocessing machinery and equipment, including
17 repair and replacement parts, both new and used, including that
18 manufactured on special order, certified by the purchaser to be
19 used primarily for photoprocessing, and including
20 photoprocessing machinery and equipment purchased for lease.

21 (16) Until July 1, 2003, coal exploration, mining,
22 offhighway hauling, processing, maintenance, and reclamation
23 equipment, including replacement parts and equipment, and
24 including equipment purchased for lease, but excluding motor
25 vehicles required to be registered under the Illinois Vehicle
26 Code.

27 (17) Until July 1, 2003, distillation machinery and
28 equipment, sold as a unit or kit, assembled or installed by the
29 retailer, certified by the user to be used only for the
30 production of ethyl alcohol that will be used for consumption
31 as motor fuel or as a component of motor fuel for the personal
32 use of the user, and not subject to sale or resale.

33 (18) Manufacturing and assembling machinery and equipment
34 used primarily in the process of manufacturing or assembling

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

10 (19) Personal property delivered to a purchaser or
11 purchaser's donee inside Illinois when the purchase order for
12 that personal property was received by a florist located
13 outside Illinois who has a florist located inside Illinois
14 deliver the personal property.

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

17 (21) 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 (22) Computers and communications equipment utilized for
24 any hospital purpose and equipment used in the diagnosis,
25 analysis, or treatment of hospital patients purchased by a
26 lessor who leases the equipment, under a lease of one year or
27 longer executed or in effect at the time the lessor would
28 otherwise be subject to the tax imposed by this Act, to a
29 hospital that has been issued an active tax exemption
30 identification number by the Department under Section 1g of the
31 Retailers' Occupation Tax Act. If the equipment is leased in a
32 manner that does not qualify for this exemption or is used in
33 any other non-exempt manner, the lessor shall be liable for the
34 tax imposed under this Act or the Service Use Tax Act, as the

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

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

32 (24) Beginning with taxable years ending on or after
33 December 31, 1995 and ending with taxable years ending on or
34 before December 31, 2004, personal property that is donated for

1 disaster relief to be used in a State or federally declared
2 disaster area in Illinois or bordering Illinois by a
3 manufacturer or retailer that is registered in this State to a
4 corporation, society, association, foundation, or institution
5 that has been issued a sales tax exemption identification
6 number by the Department that assists victims of the disaster
7 who reside within the declared disaster area.

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

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

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

1 private schools that offer systematic instruction in useful
2 branches of learning by methods common to public schools and
3 that compare favorably in their scope and intensity with the
4 course of study presented in tax-supported schools, and
5 vocational or technical schools or institutes organized and
6 operated exclusively to provide a course of study of not less
7 than 6 weeks duration and designed to prepare individuals to
8 follow a trade or to pursue a manual, technical, mechanical,
9 industrial, business, or commercial occupation.

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

24 (29) Beginning January 1, 2000 and through December 31,
25 2001, new or used automatic vending machines that prepare and
26 serve hot food and beverages, including coffee, soup, and other
27 items, and replacement parts for these machines. Beginning
28 January 1, 2002 and through June 30, 2003, machines and parts
29 for machines used in commercial, coin-operated amusement and
30 vending business if a use or occupation tax is paid on the
31 gross receipts derived from the use of the commercial,
32 coin-operated amusement and vending machines. This paragraph
33 is exempt from the provisions of Section 3-90.

34 (30) Food for human consumption that is to be consumed off

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

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

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

24 (33) On and after July 1, 2003 and through June 30, 2004,
25 the use in this State of motor vehicles of the second division
26 with a gross vehicle weight in excess of 8,000 pounds and that
27 are subject to the commercial distribution fee imposed under
28 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
29 1, 2004 and through June 30, 2005, the use in this State of
30 motor vehicles of the second division: (i) with a gross vehicle
31 weight rating in excess of 8,000 pounds; (ii) that are subject
32 to the commercial distribution fee imposed under Section
33 3-815.1 of the Illinois Vehicle Code; and (iii) that are
34 primarily used for commercial purposes. Through June 30, 2005,

1 this ~~This~~ exemption applies to repair and replacement parts
2 added after the initial purchase of such a motor vehicle if
3 that motor vehicle is used in a manner that would qualify for
4 the rolling stock exemption otherwise provided for in this Act.
5 For purposes of this paragraph, the term "used for commercial
6 purposes" means the transportation of persons or property in
7 furtherance of any commercial or industrial enterprise,
8 whether for-hire or not.

9 (Source: P.A. 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337,
10 eff. 8-10-01; 92-484, eff. 8-23-01; 92-651, eff. 7-11-02;
11 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; revised 9-11-03.)

12 (35 ILCS 105/3-61)

13 Sec. 3-61. Motor vehicles;trailers; use as rolling stock
14 definition.

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

28 (b) On and after July 1, 2003 and through June 30, 2004,
29 "use as rolling stock moving in interstate commerce" in
30 paragraphs (b) and (c) of Section 3-55 occurs for motor
31 vehicles, as defined in Section 1-146 of the Illinois Vehicle
32 Code, when during a 12-month period the rolling stock has
33 carried persons or property for hire in interstate commerce for

1 51% of its total trips and transports persons whose journeys or
2 property whose shipments originate or terminate outside
3 Illinois. Trips that are only between points in Illinois shall
4 not be counted as interstate trips when calculating whether the
5 tangible personal property qualifies for the exemption but such
6 trips shall be included in total trips taken.

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

25 For purposes of determining qualifying trips or miles,
26 motor vehicles that carry persons or property for hire, even
27 just between points in Illinois, will be considered used for
28 hire in interstate commerce if the motor vehicle transports
29 persons whose journeys or property whose shipments originate or
30 terminate outside Illinois. The exemption for motor vehicles
31 used as rolling stock moving in interstate commerce may be
32 claimed only for motor vehicles whose gross vehicle weight
33 rating exceeds 16,000 pounds. This definition applies to all
34 property purchased for the purpose of being attached to those

1 motor vehicles as a part thereof.

2 (d) Beginning July 1, 2004, "use as rolling stock moving in
3 interstate commerce" in paragraphs (b) and (c) of Section 3-55
4 occurs for trailers, as defined in Section 1-209 of the
5 Illinois Vehicle Code, semitrailers as defined in Section 1-187
6 of the Illinois Vehicle Code, and pole trailers as defined in
7 Section 1-161 of the Illinois Vehicle Code, when during a
8 12-month period the rolling stock has carried persons or
9 property for hire in interstate commerce for greater than 50%
10 of its total trips for that period or for greater than 50% of
11 its total miles for that period. The person claiming the
12 exemption for a trailer or trailers that will not be dedicated
13 to a motor vehicle or group of motor vehicles shall make an
14 election at the time of purchase to use either the trips or
15 mileage method. Persons who purchased trailers prior to July 1,
16 2004 that are not dedicated to a motor vehicle or group of
17 motor vehicles shall make an election to use either the trips
18 or mileage method and document that election in their books and
19 records. If no election is made under this subsection to use
20 the trips or mileage method, the person shall be deemed to have
21 chosen the mileage method. Any election to use either the trips
22 or mileage method will remain in effect for that trailer for
23 any period for which the Department may issue a notice of tax
24 liability under this Act.

25 For purposes of determining qualifying trips or miles,
26 trailers, semitrailers, or pole trailers that carry property
27 for hire, even just between points in Illinois, will be
28 considered used for hire in interstate commerce if the
29 trailers, semitrailers, or pole trailers transport property
30 whose shipments originate or terminate outside Illinois. This
31 definition applies to all property purchased for the purpose of
32 being attached to those trailers, semitrailers, or pole
33 trailers as a part thereof. In lieu of a person providing
34 documentation regarding the qualifying use of each individual

1 trailer, semitrailer, or pole trailer, that person may document
2 such qualifying use by providing documentation of the
3 following:

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

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

16 (3) If one or more trailers, semitrailers, or pole
17 trailers are dedicated to a group of motor vehicles and not
18 all of those motor vehicles in that group qualify as
19 rolling stock moving in interstate commerce under
20 subsection (c) of this Section, then the percentage of
21 those trailers, semitrailers, or pole trailers that
22 qualifies as rolling stock moving in interstate commerce
23 under this subsection is equal to the percentage of those
24 motor vehicles in that group that qualify as rolling stock
25 moving in interstate commerce under subsection (c) of this
26 Section to which those trailer, semitrailers, or pole
27 trailers are dedicated. However, to determine the
28 qualification for the exemption provided under this item
29 (3), the mathematical application of the qualifying
30 percentage to one or more trailers, semitrailers, or pole
31 trailers under this subpart shall not be allowed as to any
32 fraction of a trailer, semitrailer, or pole trailer.

33 (Source: P.A. 93-23, eff. 6-20-03.)

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

3 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

4 Sec. 2. "Use" means the exercise by any person of any right
5 or power over tangible personal property incident to the
6 ownership of that property, but does not include the sale or
7 use for demonstration by him of that property in any form as
8 tangible personal property in the regular course of business.
9 "Use" does not mean the interim use of tangible personal
10 property nor the physical incorporation of tangible personal
11 property, as an ingredient or constituent, into other tangible
12 personal property, (a) which is sold in the regular course of
13 business or (b) which the person incorporating such ingredient
14 or constituent therein has undertaken at the time of such
15 purchase to cause to be transported in interstate commerce to
16 destinations outside the State of Illinois.

17 "Purchased from a serviceman" means the acquisition of the
18 ownership of, or title to, tangible personal property through a
19 sale of service.

20 "Purchaser" means any person who, through a sale of
21 service, acquires the ownership of, or title to, any tangible
22 personal property.

23 "Cost price" means the consideration paid by the serviceman
24 for a purchase valued in money, whether paid in money or
25 otherwise, including cash, credits and services, and shall be
26 determined without any deduction on account of the supplier's
27 cost of the property sold or on account of any other expense
28 incurred by the supplier. When a serviceman contracts out part
29 or all of the services required in his sale of service, it
30 shall be presumed that the cost price to the serviceman of the
31 property transferred to him or her by his or her subcontractor
32 is equal to 50% of the subcontractor's charges to the
33 serviceman in the absence of proof of the consideration paid by

1 the subcontractor for the purchase of such property.

2 "Selling price" means the consideration for a sale valued
3 in money whether received in money or otherwise, including
4 cash, credits and service, and shall be determined without any
5 deduction on account of the serviceman's cost of the property
6 sold, the cost of materials used, labor or service cost or any
7 other expense whatsoever, but does not include interest or
8 finance charges which appear as separate items on the bill of
9 sale or sales contract nor charges that are added to prices by
10 sellers on account of the seller's duty to collect, from the
11 purchaser, the tax that is imposed by this Act.

12 "Department" means the Department of Revenue.

13 "Person" means any natural individual, firm, partnership,
14 association, joint stock company, joint venture, public or
15 private corporation, limited liability company, and any
16 receiver, executor, trustee, guardian or other representative
17 appointed by order of any court.

18 "Sale of service" means any transaction except:

19 (1) a retail sale of tangible personal property taxable
20 under the Retailers' Occupation Tax Act or under the Use
21 Tax Act.

22 (2) a sale of tangible personal property for the
23 purpose of resale made in compliance with Section 2c of the
24 Retailers' Occupation Tax Act.

25 (3) except as hereinafter provided, a sale or transfer
26 of tangible personal property as an incident to the
27 rendering of service for or by any governmental body, or
28 for or by any corporation, society, association,
29 foundation or institution organized and operated
30 exclusively for charitable, religious or educational
31 purposes or any not-for-profit corporation, society,
32 association, foundation, institution or organization which
33 has no compensated officers or employees and which is
34 organized and operated primarily for the recreation of

1 persons 55 years of age or older. A limited liability
2 company may qualify for the exemption under this paragraph
3 only if the limited liability company is organized and
4 operated exclusively for educational purposes.

5 (4) a sale or transfer of tangible personal property as
6 an incident to the rendering of service for interstate
7 carriers for hire for use as rolling stock moving in
8 interstate commerce or by lessors under a lease of one year
9 or longer, executed or in effect at the time of purchase of
10 personal property, to interstate carriers for hire for use
11 as rolling stock moving in interstate commerce so long as
12 so used by such interstate carriers for hire, and equipment
13 operated by a telecommunications provider, licensed as a
14 common carrier by the Federal Communications Commission,
15 which is permanently installed in or affixed to aircraft
16 moving in interstate commerce.

17 (4a) a sale or transfer of tangible personal property
18 as an incident to the rendering of service for owners,
19 lessors, or shippers of tangible personal property which is
20 utilized by interstate carriers for hire for use as rolling
21 stock moving in interstate commerce so long as so used by
22 interstate carriers for hire, and equipment operated by a
23 telecommunications provider, licensed as a common carrier
24 by the Federal Communications Commission, which is
25 permanently installed in or affixed to aircraft moving in
26 interstate commerce.

27 (4a-5) on and after July 1, 2003 and through June 30,
28 2004, a sale or transfer of a motor vehicle of the second
29 division with a gross vehicle weight in excess of 8,000
30 pounds as an incident to the rendering of service if that
31 motor vehicle is subject to the commercial distribution fee
32 imposed under Section 3-815.1 of the Illinois Vehicle Code.
33 Beginning on July 1, 2004 and through June 30, 2005, the
34 use in this State of motor vehicles of the second division:

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

14 (5) a sale or transfer of machinery and equipment used
15 primarily in the process of the manufacturing or
16 assembling, either in an existing, an expanded or a new
17 manufacturing facility, of tangible personal property for
18 wholesale or retail sale or lease, whether such sale or
19 lease is made directly by the manufacturer or by some other
20 person, whether the materials used in the process are owned
21 by the manufacturer or some other person, or whether such
22 sale or lease is made apart from or as an incident to the
23 seller's engaging in a service occupation and the
24 applicable tax is a Service Use Tax or Service Occupation
25 Tax, rather than Use Tax or Retailers' Occupation Tax.

26 (5a) the repairing, reconditioning or remodeling, for
27 a common carrier by rail, of tangible personal property
28 which belongs to such carrier for hire, and as to which
29 such carrier receives the physical possession of the
30 repaired, reconditioned or remodeled item of tangible
31 personal property in Illinois, and which such carrier
32 transports, or shares with another common carrier in the
33 transportation of such property, out of Illinois on a
34 standard uniform bill of lading showing the person who

1 repaired, reconditioned or remodeled the property to a
2 destination outside Illinois, for use outside Illinois.

3 (5b) a sale or transfer of tangible personal property
4 which is produced by the seller thereof on special order in
5 such a way as to have made the applicable tax the Service
6 Occupation Tax or the Service Use Tax, rather than the
7 Retailers' Occupation Tax or the Use Tax, for an interstate
8 carrier by rail which receives the physical possession of
9 such property in Illinois, and which transports such
10 property, or shares with another common carrier in the
11 transportation of such property, out of Illinois on a
12 standard uniform bill of lading showing the seller of the
13 property as the shipper or consignor of such property to a
14 destination outside Illinois, for use outside Illinois.

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

23 (7) at the election of any serviceman not required to
24 be otherwise registered as a retailer under Section 2a of
25 the Retailers' Occupation Tax Act, made for each fiscal
26 year sales of service in which the aggregate annual cost
27 price of tangible personal property transferred as an
28 incident to the sales of service is less than 35%, or 75%
29 in the case of servicemen transferring prescription drugs
30 or servicemen engaged in graphic arts production, of the
31 aggregate annual total gross receipts from all sales of
32 service. The purchase of such tangible personal property by
33 the serviceman shall be subject to tax under the Retailers'
34 Occupation Tax Act and the Use Tax Act. However, if a

1 primary serviceman who has made the election described in
2 this paragraph subcontracts service work to a secondary
3 serviceman who has also made the election described in this
4 paragraph, the primary serviceman does not incur a Use Tax
5 liability if the secondary serviceman (i) has paid or will
6 pay Use Tax on his or her cost price of any tangible
7 personal property transferred to the primary serviceman
8 and (ii) certifies that fact in writing to the primary
9 serviceman.

10 Tangible personal property transferred incident to the
11 completion of a maintenance agreement is exempt from the tax
12 imposed pursuant to this Act.

13 Exemption (5) also includes machinery and equipment used in
14 the general maintenance or repair of such exempt machinery and
15 equipment or for in-house manufacture of exempt machinery and
16 equipment. For the purposes of exemption (5), each of these
17 terms shall have the following meanings: (1) "manufacturing
18 process" shall mean the production of any article of tangible
19 personal property, whether such article is a finished product
20 or an article for use in the process of manufacturing or
21 assembling a different article of tangible personal property,
22 by procedures commonly regarded as manufacturing, processing,
23 fabricating, or refining which changes some existing material
24 or materials into a material with a different form, use or
25 name. In relation to a recognized integrated business composed
26 of a series of operations which collectively constitute
27 manufacturing, or individually constitute manufacturing
28 operations, the manufacturing process shall be deemed to
29 commence with the first operation or stage of production in the
30 series, and shall not be deemed to end until the completion of
31 the final product in the last operation or stage of production
32 in the series; and further, for purposes of exemption (5),
33 photoprocessing is deemed to be a manufacturing process of
34 tangible personal property for wholesale or retail sale; (2)

1 "assembling process" shall mean the production of any article
2 of tangible personal property, whether such article is a
3 finished product or an article for use in the process of
4 manufacturing or assembling a different article of tangible
5 personal property, by the combination of existing materials in
6 a manner commonly regarded as assembling which results in a
7 material of a different form, use or name; (3) "machinery"
8 shall mean major mechanical machines or major components of
9 such machines contributing to a manufacturing or assembling
10 process; and (4) "equipment" shall include any independent
11 device or tool separate from any machinery but essential to an
12 integrated manufacturing or assembly process; including
13 computers used primarily in a manufacturer's computer assisted
14 design, computer assisted manufacturing (CAD/CAM) system; or
15 any subunit or assembly comprising a component of any machinery
16 or auxiliary, adjunct or attachment parts of machinery, such as
17 tools, dies, jigs, fixtures, patterns and molds; or any parts
18 which require periodic replacement in the course of normal
19 operation; but shall not include hand tools. Equipment includes
20 chemicals or chemicals acting as catalysts but only if the
21 chemicals or chemicals acting as catalysts effect a direct and
22 immediate change upon a product being manufactured or assembled
23 for wholesale or retail sale or lease. The purchaser of such
24 machinery and equipment who has an active resale registration
25 number shall furnish such number to the seller at the time of
26 purchase. The user of such machinery and equipment and tools
27 without an active resale registration number shall prepare a
28 certificate of exemption for each transaction stating facts
29 establishing the exemption for that transaction, which
30 certificate shall be available to the Department for inspection
31 or audit. The Department shall prescribe the form of the
32 certificate.

33 Any informal rulings, opinions or letters issued by the
34 Department in response to an inquiry or request for any opinion

1 from any person regarding the coverage and applicability of
2 exemption (5) to specific devices shall be published,
3 maintained as a public record, and made available for public
4 inspection and copying. If the informal ruling, opinion or
5 letter contains trade secrets or other confidential
6 information, where possible the Department shall delete such
7 information prior to publication. Whenever such informal
8 rulings, opinions, or letters contain any policy of general
9 applicability, the Department shall formulate and adopt such
10 policy as a rule in accordance with the provisions of the
11 Illinois Administrative Procedure Act.

12 On and after July 1, 1987, no entity otherwise eligible
13 under exemption (3) of this Section shall make tax free
14 purchases unless it has an active exemption identification
15 number issued by the Department.

16 The purchase, employment and transfer of such tangible
17 personal property as newsprint and ink for the primary purpose
18 of conveying news (with or without other information) is not a
19 purchase, use or sale of service or of tangible personal
20 property within the meaning of this Act.

21 "Serviceman" means any person who is engaged in the
22 occupation of making sales of service.

23 "Sale at retail" means "sale at retail" as defined in the
24 Retailers' Occupation Tax Act.

25 "Supplier" means any person who makes sales of tangible
26 personal property to servicemen for the purpose of resale as an
27 incident to a sale of service.

28 "Serviceman maintaining a place of business in this State",
29 or any like term, means and includes any serviceman:

- 30 1. having or maintaining within this State, directly or
31 by a subsidiary, an office, distribution house, sales
32 house, warehouse or other place of business, or any agent
33 or other representative operating within this State under
34 the authority of the serviceman or its subsidiary,

1 irrespective of whether such place of business or agent or
2 other representative is located here permanently or
3 temporarily, or whether such serviceman or subsidiary is
4 licensed to do business in this State;

5 2. soliciting orders for tangible personal property by
6 means of a telecommunication or television shopping system
7 (which utilizes toll free numbers) which is intended by the
8 retailer to be broadcast by cable television or other means
9 of broadcasting, to consumers located in this State;

10 3. pursuant to a contract with a broadcaster or
11 publisher located in this State, soliciting orders for
12 tangible personal property by means of advertising which is
13 disseminated primarily to consumers located in this State
14 and only secondarily to bordering jurisdictions;

15 4. soliciting orders for tangible personal property by
16 mail if the solicitations are substantial and recurring and
17 if the retailer benefits from any banking, financing, debt
18 collection, telecommunication, or marketing activities
19 occurring in this State or benefits from the location in
20 this State of authorized installation, servicing, or
21 repair facilities;

22 5. being owned or controlled by the same interests
23 which own or control any retailer engaging in business in
24 the same or similar line of business in this State;

25 6. having a franchisee or licensee operating under its
26 trade name if the franchisee or licensee is required to
27 collect the tax under this Section;

28 7. pursuant to a contract with a cable television
29 operator located in this State, soliciting orders for
30 tangible personal property by means of advertising which is
31 transmitted or distributed over a cable television system
32 in this State; or

33 8. engaging in activities in Illinois, which
34 activities in the state in which the supply business

1 engaging in such activities is located would constitute
2 maintaining a place of business in that state.

3 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24,
4 eff. 6-20-03; revised 8-21-03.)

5 (35 ILCS 110/3-51)

6 Sec. 3-51. Motor vehicles; trailers; use as rolling stock
7 definition.

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

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

1 (c) Beginning July 1, 2004, "use as rolling stock moving in
2 interstate commerce" in paragraphs (b) and (c) of Section 3-55
3 occurs for motor vehicles, as defined in Section 1-146 of the
4 Illinois Vehicle Code, when during a 12-month period the
5 rolling stock has carried persons or property for hire in
6 interstate commerce for greater than 50% of its total trips for
7 that period or for greater than 50% of its total miles for that
8 period. The person claiming the exemption shall make an
9 election at the time of purchase to use either the trips or
10 mileage method. Persons who purchased motor vehicles prior to
11 July 1, 2004 shall make an election to use either the trips or
12 mileage method and document that election in their books and
13 records. If no election is made under this subsection to use
14 the trips or mileage method, the person shall be deemed to have
15 chosen the mileage method. Any election to use either the trips
16 or mileage method will remain in effect for that motor vehicle
17 for any period for which the Department may issue a notice of
18 tax liability under this Act.

19 For purposes of determining qualifying trips or miles,
20 motor vehicles that carry persons or property for hire, even
21 just between points in Illinois, will be considered used for
22 hire in interstate commerce if the motor vehicle transports
23 persons whose journeys or property whose shipments originate or
24 terminate outside Illinois. The exemption for motor vehicles
25 used as rolling stock moving in interstate commerce may be
26 claimed only for motor vehicles whose gross vehicle weight
27 rating exceeds 16,000 pounds. This definition applies to all
28 property purchased for the purpose of being attached to those
29 motor vehicles as a part thereof.

30 (d) Beginning July 1, 2004, "use as rolling stock moving in
31 interstate commerce" in paragraphs (b) and (c) of Section 3-55
32 occurs for trailers, as defined in Section 1-209 of the
33 Illinois Vehicle Code, semitrailers as defined in Section 1-187
34 of the Illinois Vehicle Code, and pole trailers as defined in

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

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

32 (1) If a trailer, semitrailer, or pole trailer is
33 dedicated to a motor vehicle that qualifies as rolling
34 stock moving in interstate commerce under subsection (c) of

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

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

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

27 (Source: P.A. 93-23, eff. 6-20-03.)

28 Section 20. The Service Occupation Tax Act is amended by
29 changing Sections 2 and 2d as follows:

30 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

31 Sec. 2. "Transfer" means any transfer of the title to
32 property or of the ownership of property whether or not the

1 transferor retains title as security for the payment of amounts
2 due him from the transferee.

3 "Cost Price" means the consideration paid by the serviceman
4 for a purchase valued in money, whether paid in money or
5 otherwise, including cash, credits and services, and shall be
6 determined without any deduction on account of the supplier's
7 cost of the property sold or on account of any other expense
8 incurred by the supplier. When a serviceman contracts out part
9 or all of the services required in his sale of service, it
10 shall be presumed that the cost price to the serviceman of the
11 property transferred to him by his or her subcontractor is
12 equal to 50% of the subcontractor's charges to the serviceman
13 in the absence of proof of the consideration paid by the
14 subcontractor for the purchase of such property.

15 "Department" means the Department of Revenue.

16 "Person" means any natural individual, firm, partnership,
17 association, joint stock company, joint venture, public or
18 private corporation, limited liability company, and any
19 receiver, executor, trustee, guardian or other representative
20 appointed by order of any court.

21 "Sale of Service" means any transaction except:

22 (a) A retail sale of tangible personal property taxable
23 under the Retailers' Occupation Tax Act or under the Use Tax
24 Act.

25 (b) A sale of tangible personal property for the purpose of
26 resale made in compliance with Section 2c of the Retailers'
27 Occupation Tax Act.

28 (c) Except as hereinafter provided, a sale or transfer of
29 tangible personal property as an incident to the rendering of
30 service for or by any governmental body or for or by any
31 corporation, society, association, foundation or institution
32 organized and operated exclusively for charitable, religious
33 or educational purposes or any not-for-profit corporation,
34 society, association, foundation, institution or organization

1 which has no compensated officers or employees and which is
2 organized and operated primarily for the recreation of persons
3 55 years of age or older. A limited liability company may
4 qualify for the exemption under this paragraph only if the
5 limited liability company is organized and operated
6 exclusively for educational purposes.

7 (d) A sale or transfer of tangible personal property as an
8 incident to the rendering of service for interstate carriers
9 for hire for use as rolling stock moving in interstate commerce
10 or lessors under leases of one year or longer, executed or in
11 effect at the time of purchase, to interstate carriers for hire
12 for use as rolling stock moving in interstate commerce, and
13 equipment operated by a telecommunications provider, licensed
14 as a common carrier by the Federal Communications Commission,
15 which is permanently installed in or affixed to aircraft moving
16 in interstate commerce.

17 (d-1) A sale or transfer of tangible personal property as
18 an incident to the rendering of service for owners, lessors or
19 shippers of tangible personal property which is utilized by
20 interstate 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 (d-1.1) On and after July 1, 2003 and through June 30,
27 2004, a sale or transfer of a motor vehicle of the second
28 division with a gross vehicle weight in excess of 8,000 pounds
29 as an incident to the rendering of service if that motor
30 vehicle is subject to the commercial distribution fee imposed
31 under Section 3-815.1 of the Illinois Vehicle Code. Beginning
32 on July 1, 2004 and through June 30, 2005, the use in this
33 State of motor vehicles of the second division: (i) with a
34 gross vehicle weight rating in excess of 8,000 pounds; (ii)

1 that are subject to the commercial distribution fee imposed
2 under Section 3-815.1 of the Illinois Vehicle Code; and (iii)
3 that are primarily used for commercial purposes. Through June
4 30, 2005, this ~~This~~ exemption applies to repair and replacement
5 parts added after the initial purchase of such a motor vehicle
6 if that motor vehicle is used in a manner that would qualify
7 for the rolling stock exemption otherwise provided for in this
8 Act. For purposes of this paragraph, "used for commercial
9 purposes" means the transportation of persons or property in
10 furtherance of any commercial or industrial enterprise whether
11 for-hire or not.

12 (d-2) The repairing, reconditioning or remodeling, for a
13 common carrier by rail, of tangible personal property which
14 belongs to such carrier for hire, and as to which such carrier
15 receives the physical possession of the repaired,
16 reconditioned or remodeled item of tangible personal property
17 in Illinois, and which such carrier transports, or shares with
18 another common carrier in the transportation of such property,
19 out of Illinois on a standard uniform bill of lading showing
20 the person who repaired, reconditioned or remodeled the
21 property as the shipper or consignor of such property to a
22 destination outside Illinois, for use outside Illinois.

23 (d-3) A sale or transfer of tangible personal property
24 which is produced by the seller thereof on special order in
25 such a way as to have made the applicable tax the Service
26 Occupation Tax or the Service Use Tax, rather than the
27 Retailers' Occupation Tax or the Use Tax, for an interstate
28 carrier by rail which receives the physical possession of such
29 property in Illinois, and which transports such property, or
30 shares with another common carrier in the transportation of
31 such property, out of Illinois on a standard uniform bill of
32 lading showing the seller of the property as the shipper or
33 consignor of such property to a destination outside Illinois,
34 for use outside Illinois.

1 (d-4) Until January 1, 1997, a sale, by a registered
2 serviceman paying tax under this Act to the Department, of
3 special order printed materials delivered outside Illinois and
4 which are not returned to this State, if delivery is made by
5 the seller or agent of the seller, including an agent who
6 causes the product to be delivered outside Illinois by a common
7 carrier or the U.S. postal service.

8 (e) A sale or transfer of machinery and equipment used
9 primarily in the process of the manufacturing or assembling,
10 either in an existing, an expanded or a new manufacturing
11 facility, of tangible personal property for wholesale or retail
12 sale or lease, whether such sale or lease is made directly by
13 the manufacturer or by some other person, whether the materials
14 used in the process are owned by the manufacturer or some other
15 person, or whether such sale or lease is made apart from or as
16 an incident to the seller's engaging in a service occupation
17 and the applicable tax is a Service Occupation Tax or Service
18 Use Tax, rather than Retailers' Occupation Tax or Use Tax.

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

26 (g) At the election of any serviceman not required to be
27 otherwise registered as a retailer under Section 2a of the
28 Retailers' Occupation Tax Act, made for each fiscal year sales
29 of service in which the aggregate annual cost price of tangible
30 personal property transferred as an incident to the sales of
31 service is less than 35% (75% in the case of servicemen
32 transferring prescription drugs or servicemen engaged in
33 graphic arts production) of the aggregate annual total gross
34 receipts from all sales of service. The purchase of such

1 tangible personal property by the serviceman shall be subject
2 to tax under the Retailers' Occupation Tax Act and the Use Tax
3 Act. However, if a primary serviceman who has made the election
4 described in this paragraph subcontracts service work to a
5 secondary serviceman who has also made the election described
6 in this paragraph, the primary serviceman does not incur a Use
7 Tax liability if the secondary serviceman (i) has paid or will
8 pay Use Tax on his or her cost price of any tangible personal
9 property transferred to the primary serviceman and (ii)
10 certifies that fact in writing to the primary serviceman.

11 Tangible personal property transferred incident to the
12 completion of a maintenance agreement is exempt from the tax
13 imposed pursuant to this Act.

14 Exemption (e) also includes machinery and equipment used in
15 the general maintenance or repair of such exempt machinery and
16 equipment or for in-house manufacture of exempt machinery and
17 equipment. For the purposes of exemption (e), each of these
18 terms shall have the following meanings: (1) "manufacturing
19 process" shall mean the production of any article of tangible
20 personal property, whether such article is a finished product
21 or an article for use in the process of manufacturing or
22 assembling a different article of tangible personal property,
23 by procedures commonly regarded as manufacturing, processing,
24 fabricating, or refining which changes some existing material
25 or materials into a material with a different form, use or
26 name. In relation to a recognized integrated business composed
27 of a series of operations which collectively constitute
28 manufacturing, or individually constitute manufacturing
29 operations, the manufacturing process shall be deemed to
30 commence with the first operation or stage of production in the
31 series, and shall not be deemed to end until the completion of
32 the final product in the last operation or stage of production
33 in the series; and further for purposes of exemption (e),
34 photoprocessing is deemed to be a manufacturing process of

1 tangible personal property for wholesale or retail sale; (2)
2 "assembling process" shall mean the production of any article
3 of tangible personal property, whether such article is a
4 finished product or an article for use in the process of
5 manufacturing or assembling a different article of tangible
6 personal property, by the combination of existing materials in
7 a manner commonly regarded as assembling which results in a
8 material of a different form, use or name; (3) "machinery"
9 shall mean major mechanical machines or major components of
10 such machines contributing to a manufacturing or assembling
11 process; and (4) "equipment" shall include any independent
12 device or tool separate from any machinery but essential to an
13 integrated manufacturing or assembly process; including
14 computers used primarily in a manufacturer's computer assisted
15 design, computer assisted manufacturing (CAD/CAM) system; or
16 any subunit or assembly comprising a component of any machinery
17 or auxiliary, adjunct or attachment parts of machinery, such as
18 tools, dies, jigs, fixtures, patterns and molds; or any parts
19 which require periodic replacement in the course of normal
20 operation; but shall not include hand tools. Equipment includes
21 chemicals or chemicals acting as catalysts but only if the
22 chemicals or chemicals acting as catalysts effect a direct and
23 immediate change upon a product being manufactured or assembled
24 for wholesale or retail sale or lease. The purchaser of such
25 machinery and equipment who has an active resale registration
26 number shall furnish such number to the seller at the time of
27 purchase. The purchaser of such machinery and equipment and
28 tools without an active resale registration number shall
29 furnish to the seller a certificate of exemption for each
30 transaction stating facts establishing the exemption for that
31 transaction, which certificate shall be available to the
32 Department for inspection or audit.

33 Except as provided in Section 2d of this Act, the rolling
34 stock exemption applies to rolling stock used by an interstate

1 carrier for hire, even just between points in Illinois, if such
2 rolling stock transports, for hire, persons whose journeys or
3 property whose shipments originate or terminate outside
4 Illinois.

5 Any informal rulings, opinions or letters issued by the
6 Department in response to an inquiry or request for any opinion
7 from any person regarding the coverage and applicability of
8 exemption (e) to specific devices shall be published,
9 maintained as a public record, and made available for public
10 inspection and copying. If the informal ruling, opinion or
11 letter contains trade secrets or other confidential
12 information, where possible the Department shall delete such
13 information prior to publication. Whenever such informal
14 rulings, opinions, or letters contain any policy of general
15 applicability, the Department shall formulate and adopt such
16 policy as a rule in accordance with the provisions of the
17 Illinois Administrative Procedure Act.

18 On and after July 1, 1987, no entity otherwise eligible
19 under exemption (c) of this Section shall make tax free
20 purchases unless it has an active exemption identification
21 number issued by the Department.

22 "Serviceman" means any person who is engaged in the
23 occupation of making sales of service.

24 "Sale at Retail" means "sale at retail" as defined in the
25 Retailers' Occupation Tax Act.

26 "Supplier" means any person who makes sales of tangible
27 personal property to servicemen for the purpose of resale as an
28 incident to a sale of service.

29 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24,
30 eff. 6-20-03; revised 8-21-03.)

31 (35 ILCS 115/2d)

32 Sec. 2d. Motor vehicles; trailers; use as rolling stock
33 definition.

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

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

27 (c) Beginning July 1, 2004, "use as rolling stock moving in
28 interstate commerce" in paragraphs (b) and (c) of Section 3-55
29 occurs for motor vehicles, as defined in Section 1-146 of the
30 Illinois Vehicle Code, when during a 12-month period the
31 rolling stock has carried persons or property for hire in
32 interstate commerce for greater than 50% of its total trips for
33 that period or for greater than 50% of its total miles for that
34 period. The person claiming the exemption shall make an

1 election at the time of purchase to use either the trips or
2 mileage method. Persons who purchased motor vehicles prior to
3 July 1, 2004 shall make an election to use either the trips or
4 mileage method and document that election in their books and
5 records. If no election is made under this subsection to use
6 the trips or mileage method, the person shall be deemed to have
7 chosen the mileage method. Any election to use either the trips
8 or mileage method will remain in effect for that motor vehicle
9 for any period for which the Department may issue a notice of
10 tax liability under this Act.

11 For purposes of determining qualifying trips or miles,
12 motor vehicles that carry persons or property for hire, even
13 just between points in Illinois, will be considered used for
14 hire in interstate commerce if the motor vehicle transports
15 persons whose journeys or property whose shipments originate or
16 terminate outside Illinois. The exemption for motor vehicles
17 used as rolling stock moving in interstate commerce may be
18 claimed only for motor vehicles whose gross vehicle weight
19 rating exceeds 16,000 pounds. This definition applies to all
20 property purchased for the purpose of being attached to those
21 motor vehicles as a part thereof.

22 (d) Beginning July 1, 2004, "use as rolling stock moving in
23 interstate commerce" in paragraphs (b) and (c) of Section 3-55
24 occurs for trailers, as defined in Section 1-209 of the
25 Illinois Vehicle Code, semitrailers as defined in Section 1-187
26 of the Illinois Vehicle Code, and pole trailers as defined in
27 Section 1-161 of the Illinois Vehicle Code, when during a
28 12-month period the rolling stock has carried persons or
29 property for hire in interstate commerce for greater than 50%
30 of its total trips for that period or for greater than 50% of
31 its total miles for that period. The person claiming the
32 exemption for a trailer or trailers that will not be dedicated
33 to a motor vehicle or group of motor vehicles shall make an
34 election at the time of purchase to use either the trips or

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

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

24 (1) If a trailer, semitrailer, or pole trailer is
25 dedicated to a motor vehicle that qualifies as rolling
26 stock moving in interstate commerce under subsection (c) of
27 this Section, then that trailer, semitrailer, or pole
28 trailer qualifies as rolling stock moving in interstate
29 commerce under this subsection.

30 (2) If a trailer, semitrailer, or pole trailer is
31 dedicated to a group of motor vehicles that all qualify as
32 rolling stock moving in interstate commerce under
33 subsection (c) of this Section, then that trailer,
34 semitrailer, or pole trailer qualifies as rolling stock

1 moving in interstate commerce under this subsection.

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

19 (Source: P.A. 93-23, eff. 6-20-03.)

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

22 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

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

26 (1) Farm chemicals.

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

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

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

22 Farm machinery and equipment also includes computers,
23 sensors, software, and related equipment used primarily in the
24 computer-assisted operation of production agriculture
25 facilities, equipment, and activities such as, but not limited
26 to, the collection, monitoring, and correlation of animal and
27 crop data for the purpose of formulating animal diets and
28 agricultural chemicals. This item (7) is exempt from the
29 provisions of Section 2-70.

30 (3) Until July 1, 2003, distillation machinery and
31 equipment, sold as a unit or kit, assembled or installed by the
32 retailer, certified by the user to be used only for the
33 production of ethyl alcohol that will be used for consumption
34 as motor fuel or as a component of motor fuel for the personal

1 use of the user, and not subject to sale or resale.

2 (4) Until July 1, 2003, graphic arts machinery and
3 equipment, including repair and replacement parts, both new and
4 used, and including that manufactured on special order or
5 purchased for lease, certified by the purchaser to be used
6 primarily for graphic arts production. Equipment includes
7 chemicals or chemicals acting as catalysts but only if the
8 chemicals or chemicals acting as catalysts effect a direct and
9 immediate change upon a graphic arts product.

10 (5) A motor vehicle of the first division, a motor vehicle
11 of the second division that is a self-contained motor vehicle
12 designed or permanently converted to provide living quarters
13 for recreational, camping, or travel use, with direct walk
14 through access to the living quarters from the driver's seat,
15 or a motor vehicle of the second division that is of the van
16 configuration designed for the transportation of not less than
17 7 nor more than 16 passengers, as defined in Section 1-146 of
18 the Illinois Vehicle Code, that is used for automobile renting,
19 as defined in the Automobile Renting Occupation and Use Tax
20 Act.

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

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

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

30 (9) Personal property sold to a not-for-profit arts or
31 cultural organization that establishes, by proof required by
32 the Department by rule, that it has received an exemption under
33 Section 501(c)(3) of the Internal Revenue Code and that is
34 organized and operated primarily for the presentation or

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

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

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

32 (12) Tangible personal property sold to interstate
33 carriers for hire for use as rolling stock moving in interstate
34 commerce or to lessors under leases of one year or longer

1 executed or in effect at the time of purchase by interstate
2 carriers for hire for use as rolling stock moving in interstate
3 commerce and equipment operated by a telecommunications
4 provider, licensed as a common carrier by the Federal
5 Communications Commission, which is permanently installed in
6 or affixed to aircraft moving in interstate commerce.

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

26 (13) Proceeds from sales to owners, lessors, or shippers of
27 tangible personal property that is utilized by interstate
28 carriers for hire for use as rolling stock moving in interstate
29 commerce and equipment operated by a telecommunications
30 provider, licensed as a common carrier by the Federal
31 Communications Commission, which is permanently installed in
32 or affixed to aircraft moving in interstate 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 the
6 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 similar
9 items of no commercial value on special order for a particular
10 purchaser.

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

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

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

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

33 (19) Until July 1 2003, oil field exploration, drilling,
34 and production equipment, including (i) rigs and parts of rigs,

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

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

13 (21) Until July 1, 2003, coal exploration, mining,
14 offhighway hauling, processing, maintenance, and reclamation
15 equipment, including replacement parts and equipment, and
16 including equipment purchased for lease, but excluding motor
17 vehicles required to be registered under the Illinois Vehicle
18 Code.

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

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

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

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

12 (26) Semen used for artificial insemination of livestock
13 for direct agricultural production.

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

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

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

33 (30) Beginning with taxable years ending on or after
34 December 31, 1995 and ending with taxable years ending on or

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

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

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

27 (33) A motor vehicle, as that term is defined in Section
28 1-146 of the Illinois Vehicle Code, that is donated to a
29 corporation, limited liability company, society, association,
30 foundation, or institution that is determined by the Department
31 to be organized and operated exclusively for educational
32 purposes. For purposes of this exemption, "a corporation,
33 limited liability company, society, association, foundation,
34 or institution organized and operated exclusively for

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

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

25 (35) Beginning January 1, 2000 and through December 31,
26 2001, new or used automatic vending machines that prepare and
27 serve hot food and beverages, including coffee, soup, and other
28 items, and replacement parts for these machines. Beginning
29 January 1, 2002 and through June 30, 2003, machines and parts
30 for machines used in commercial, coin-operated amusement and
31 vending business if a use or occupation tax is paid on the
32 gross receipts derived from the use of the commercial,
33 coin-operated amusement and vending machines. This paragraph
34 is exempt from the provisions of Section 2-70.

1 (35-5) Food for human consumption that is to be consumed
2 off the premises where it is sold (other than alcoholic
3 beverages, soft drinks, and food that has been prepared for
4 immediate consumption) and prescription and nonprescription
5 medicines, drugs, medical appliances, and insulin, urine
6 testing materials, syringes, and needles used by diabetics, for
7 human use, when purchased for use by a person receiving medical
8 assistance under Article 5 of the Illinois Public Aid Code who
9 resides in a licensed long-term care facility, as defined in
10 the Nursing Home Care Act.

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

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

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

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

15 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
16 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
17 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.
18 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; revised
19 9-11-03.)

20 (35 ILCS 120/2-51)

21 Sec. 2-51. Motor vehicles; trailers; use as rolling stock
22 definition.

23 (a) Through June 30, 2003, "use as rolling stock moving in
24 interstate commerce" in paragraphs (12) and (13) of Section 2-5
25 means for motor vehicles, as defined in Section 1-146 of the
26 Illinois Vehicle Code, and trailers, as defined in Section
27 1-209 of the Illinois Vehicle Code, when on 15 or more
28 occasions in a 12-month period the motor vehicle and trailer
29 has carried persons or property for hire in interstate
30 commerce, even just between points in Illinois, if the motor
31 vehicle and trailer transports persons whose journeys or
32 property whose shipments originate or terminate outside
33 Illinois. This definition applies to all property purchased for

1 the purpose of being attached to those motor vehicles or
2 trailers as a part thereof.

3 (b) On and after July 1, 2003 and through June 30, 2004,
4 "use as rolling stock moving in interstate commerce" in
5 paragraphs (12) and (13) of Section 2-5 occurs for motor
6 vehicles, as defined in Section 1-146 of the Illinois Vehicle
7 Code, when during a 12-month period the rolling stock has
8 carried persons or property for hire in interstate commerce for
9 51% of its total trips and transports persons whose journeys or
10 property whose shipments originate or terminate outside
11 Illinois. Trips that are only between points in Illinois shall
12 not be counted as interstate trips when calculating whether the
13 tangible personal property qualifies for the exemption but such
14 trips shall be included in total trips taken.

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

33 For purposes of determining qualifying trips or miles,
34 motor vehicles that carry persons or property for hire, even

1 just between points in Illinois, will be considered used for
2 hire in interstate commerce if the motor vehicle transports
3 persons whose journeys or property whose shipments originate or
4 terminate outside Illinois. The exemption for motor vehicles
5 used as rolling stock moving in interstate commerce may be
6 claimed only for motor vehicles whose gross vehicle weight
7 rating exceeds 16,000 pounds. This definition applies to all
8 property purchased for the purpose of being attached to those
9 motor vehicles as a part thereof.

10 (d) Beginning July 1, 2004, "use as rolling stock moving in
11 interstate commerce" in paragraphs (b) and (c) of Section 3-55
12 occurs for trailers, as defined in Section 1-209 of the
13 Illinois Vehicle Code, semitrailers as defined in Section 1-187
14 of the Illinois Vehicle Code, and pole trailers as defined in
15 Section 1-161 of the Illinois Vehicle Code, when during a
16 12-month period the rolling stock has carried persons or
17 property for hire in interstate commerce for greater than 50%
18 of its total trips for that period or for greater than 50% of
19 its total miles for that period. The person claiming the
20 exemption for a trailer or trailers that will not be dedicated
21 to a motor vehicle or group of motor vehicles shall make an
22 election at the time of purchase to use either the trips or
23 mileage method. Persons who purchased trailers prior to July 1,
24 2004 that are not dedicated to a motor vehicle or group of
25 motor vehicles shall make an election to use either the trips
26 or mileage method and document that election in their books and
27 records. If no election is made under this subsection to use
28 the trips or mileage method, the person shall be deemed to have
29 chosen the mileage method. Any election to use either the trips
30 or mileage method will remain in effect for that trailer for
31 any period for which the Department may issue a notice of tax
32 liability under this Act.

33 For purposes of determining qualifying trips or miles,
34 trailers, semitrailers, or pole trailers that carry property

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

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

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

24 (3) If one or more trailers, semitrailers, or pole
25 trailers are dedicated to a group of motor vehicles and not
26 all of those motor vehicles in that group qualify as
27 rolling stock moving in interstate commerce under
28 subsection (c) of this Section, then the percentage of
29 those trailers, semitrailers, or pole trailers that
30 qualifies as rolling stock moving in interstate commerce
31 under this subsection is equal to the percentage of those
32 motor vehicles in that group that qualify as rolling stock
33 moving in interstate commerce under subsection (c) of this
34 Section to which those trailer, semitrailers, or pole

1 trailers are dedicated. However, to determine the
2 qualification for the exemption provided under this item
3 (3), the mathematical application of the qualifying
4 percentage to one or more trailers, semitrailers, or pole
5 trailers under this subpart shall not be allowed as to any
6 fraction of a trailer, semitrailer, or pole trailer.

7 (Source: P.A. 93-23, eff. 6-20-03.)

8 Section 30. The Illinois Vehicle Code is amended by
9 changing Section 3-815.1 as follows:

10 (625 ILCS 5/3-815.1)

11 Sec. 3-815.1. Commercial distribution fee. Beginning July
12 1, 2003, in addition to any tax or fee imposed under this Code:

13 (a) Vehicles of the second division with a gross
14 vehicle weight that exceeds 8,000 pounds and that incur any
15 tax or fee under subsection (a) of Section 3-815 of this
16 Code or subsection (a) of Section 3-818 of this Code, as
17 applicable, ~~and~~ shall pay to the Secretary of State a
18 commercial distribution fee, for each registration year,
19 for the use of the public highways, State infrastructure,
20 and State services, in an amount equal to: (i) for a
21 registration year beginning on or after July 1, 2003 and
22 before July 1, 2005, 36% of the taxes and fees incurred
23 under subsection (a) of Section 3-815 of this Code, or
24 subsection (a) of Section 3-818 of this Code, as
25 applicable, rounded up to the nearest whole dollar; (ii)
26 for a registration year beginning on or after July 1, 2005
27 and before July 1, 2006, 21.5% of the taxes and fees
28 incurred under subsection (a) of Section 3-815 of this
29 Code, or subsection (a) of Section 3-818 of this Code, as
30 applicable, rounded up to the nearest whole dollar; and
31 (iii) for a registration year beginning on or after July 1,
32 2006, 14.35% of the taxes and fees incurred under

1 subsection (a) of Section 3-815 of this Code, or subsection
2 (a) of Section 3-818 of this Code, as applicable, rounded
3 up to the nearest whole dollar.

4 (b) Until June 30, 2004, vehicles ~~Vehicles~~ of the
5 second division with a gross vehicle weight of 8,000 pounds
6 or less and that incur any tax or fee under subsection (a)
7 of Section 3-815 of this Code or subsection (a) of Section
8 3-818 of this Code, as applicable, and have claimed the
9 rolling stock exemption under the Retailers' Occupation
10 Tax Act, Use Tax Act, Service Occupation Tax Act, or
11 Service Use Tax Act shall pay to the Illinois Department of
12 Revenue (or the Secretary of State under an
13 intergovernmental agreement) a commercial distribution
14 fee, for each registration year, for the use of the public
15 highways, State infrastructure, and State services, in an
16 amount equal to 36% of the taxes and fees incurred under
17 subsection (a) of Section 3-815 of this Code or subsection
18 (a) of Section 3-818 of this Code, as applicable, rounded
19 up to the nearest whole dollar.

20 The fees paid under this Section shall be deposited by the
21 Secretary of State into the General Revenue Fund.

22 (Source: P.A. 93-23, eff. 6-20-03; revised 10-9-03.)

23 Section 99. Effective date. This Act takes effect July 1,
24 2004."