



Sen. Don Harmon

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LRB094 08554 BDD 44845 a

1 AMENDMENT TO SENATE BILL 716

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 716 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Use Tax Act is amended by changing Section  
5 2a as follows:

6 (35 ILCS 105/2a) (from Ch. 120, par. 439.2a)

7 Sec. 2a. Pollution control facilities.

8 (a) As used in this subsection (a), "pollution control  
9 facilities" means any system, method, construction, device or  
10 appliance appurtenant thereto sold or used or intended for the  
11 primary purpose of eliminating, preventing, or reducing air and  
12 water pollution as the term "air pollution" or "water  
13 pollution" is defined in the "Environmental Protection Act",  
14 enacted by the 76th General Assembly, or for the primary  
15 purpose of treating, pretreating, modifying or disposing of any  
16 potential solid, liquid or gaseous pollutant which if released  
17 without such treatment, pretreatment, modification or disposal  
18 might be harmful, detrimental or offensive to human, plant or  
19 animal life, or to property.

20 Until July 1, 2003, the purchase, employment and transfer  
21 of such tangible personal property as pollution control  
22 facilities is not a purchase, use or sale of tangible personal  
23 property.

24 (b) Beginning July 1, 2005, tangible personal property that

1 is certified by the Pollution Control Board as a "pollution  
2 control facility", as that term is defined in Section 11-10 of  
3 the Property Tax Code, is exempt from the tax imposed by this  
4 Act if the property is used as part of a livestock management  
5 facility or a livestock waste handling facility (i) that has  
6 been approved by the Department of Agriculture under the  
7 provisions of the Livestock Management Facilities Act and (ii)  
8 that is located within an agricultural area established by a  
9 county under the Agricultural Areas Conservation and  
10 Protection Act.

11 To document this exemption, a purchaser must provide the  
12 retailer with a copy of the certification issued by the  
13 Pollution Control Board, along with a certification, verified  
14 by the purchaser, that the tangible personal property will be  
15 used primarily as a pollution control facility in an approved  
16 livestock management facility or livestock waste handling  
17 facility located in an agricultural area.

18 The provisions of this subsection (b) are exempt from  
19 Section 3-90.

20 (Source: P.A. 93-24, eff. 6-20-03.)

21 Section 10. The Service Use Tax Act is amended by changing  
22 Section 2a as follows:

23 (35 ILCS 110/2a) (from Ch. 120, par. 439.32a)

24 Sec. 2a. Pollution control facilities.

25 (a) As used in this subsection (a), "pollution control  
26 facilities" means any system, method, construction, device or  
27 appliance appurtenant thereto used in this State acquired as an  
28 incident to the purchase of a service from a serviceman for the  
29 primary purpose of eliminating, preventing, or reducing air and  
30 water pollution as the term "air pollution" or "water  
31 pollution" is defined in the "Environmental Protection Act",  
32 enacted by the 76th General Assembly, or for the primary

1 purpose of treating, pretreating, modifying or disposing of any  
2 potential solid, liquid or gaseous pollutant which if released  
3 without such treatment, pretreatment, modification or disposal  
4 might be harmful, detrimental or offensive to human, plant or  
5 animal life, or to property.

6 Until July 1, 2003, the purchase, employment or transfer of  
7 such tangible personal property as pollution control  
8 facilities is not a purchase, use or sale of service or of  
9 tangible personal property within the meaning of this Act.

10 (b) Beginning July 1, 2005, tangible personal property that  
11 is certified by the Pollution Control Board as a "pollution  
12 control facility", as that term is defined in Section 11-10 of  
13 the Property Tax Code, is exempt from the tax imposed by this  
14 Act if the property is used as part of a livestock management  
15 facility or a livestock waste handling facility (i) that has  
16 been approved by the Department of Agriculture under the  
17 provisions of the Livestock Management Facilities Act and (ii)  
18 that is located within an agricultural area established by a  
19 county under the Agricultural Areas Conservation and  
20 Protection Act.

21 To document this exemption, a purchaser must provide the  
22 retailer with a copy of the certification issued by the  
23 Pollution Control Board, along with a certification, verified  
24 by the purchaser, that the tangible personal property will be  
25 used primarily as a pollution control facility in an approved  
26 livestock management facility or livestock waste handling  
27 facility located in an agricultural area.

28 The provisions of this subsection (b) are exempt from  
29 Section 3-75.

30 (Source: P.A. 93-24, eff. 6-20-03.)

31 Section 15. The Service Occupation Tax Act is amended by  
32 changing Section 2a as follows:

1 (35 ILCS 115/2a) (from Ch. 120, par. 439.102a)

2 Sec. 2a. Pollution control facilities.

3 (a) As used in this subsection (a), "pollution control  
4 facilities" means any system, method, construction, device or  
5 appliance appurtenant thereto transferred by a serviceman for  
6 the primary purpose of eliminating, preventing, or reducing air  
7 and water pollution as the term "air pollution" or "water  
8 pollution" is defined in the "Environmental Protection Act",  
9 enacted by the 76th General Assembly, or for the primary  
10 purpose of treating, pretreating, modifying or disposing of any  
11 potential solid, liquid or gaseous pollutant which if released  
12 without such treatment, pretreatment, modification or disposal  
13 might be harmful, detrimental or offensive to human, plant or  
14 animal life, or to property.

15 Until July 1, 2003, the purchase, employment and transfer  
16 of such tangible personal property as pollution control  
17 facilities shall not be deemed to be a purchase, use or sale of  
18 service or of tangible personal property, but shall be deemed  
19 to be intangible personal property.

20 (b) Beginning July 1, 2005, tangible personal property that  
21 is certified by the Pollution Control Board as a "pollution  
22 control facility", as that term is defined in Section 11-10 of  
23 the Property Tax Code, is exempt from the tax imposed by this  
24 Act if the property is used as part of a livestock management  
25 facility or a livestock waste handling facility (i) that has  
26 been approved by the Department of Agriculture under the  
27 provisions of the Livestock Management Facilities Act and (ii)  
28 that is located within an agricultural area established by a  
29 county under the Agricultural Areas Conservation and  
30 Protection Act.

31 To document this exemption, a purchaser must provide the  
32 retailer with a copy of the certification issued by the  
33 Pollution Control Board, along with a certification, verified  
34 by the purchaser, that the tangible personal property will be

1 used primarily as a pollution control facility in an approved  
2 livestock management facility or livestock waste handling  
3 facility located in an agricultural area.

4 The provisions of this subsection (b) are exempt from  
5 Section 3-55.

6 (Source: P.A. 93-24, eff. 6-20-03.)

7 Section 20. The Retailers' Occupation Tax Act is amended by  
8 changing Sections 1a and 5k as follows:

9 (35 ILCS 120/1a) (from Ch. 120, par. 440a)

10 Sec. 1a. Pollution control facilities.

11 (a) As used in this subsection (a), "pollution control  
12 facilities" means any system, method, construction, device or  
13 appliance appurtenant thereto sold or used or intended for the  
14 primary purpose of eliminating, preventing, or reducing air and  
15 water pollution as the term "air pollution" or "water  
16 pollution" is defined in the "Environmental Protection Act",  
17 enacted by the 76th General Assembly, or for the primary  
18 purpose of treating, pretreating, modifying or disposing of any  
19 potential solid, liquid or gaseous pollutant which if released  
20 without such treatment, pretreatment, modification or disposal  
21 might be harmful, detrimental or offensive to human, plant or  
22 animal life, or to property.

23 Until July 1, 2003, the purchase, employment and transfer  
24 of such tangible personal property as pollution control  
25 facilities is not a purchase, use or sale of tangible personal  
26 property.

27 (b) Beginning July 1, 2005, tangible personal property that  
28 is certified by the Pollution Control Board as a "pollution  
29 control facility", as that term is defined in Section 11-10 of  
30 the Property Tax Code, is exempt from the tax imposed by this  
31 Act if the property is used as part of a livestock management  
32 facility or a livestock waste handling facility (i) that has

1 been approved by the Department of Agriculture under the  
2 provisions of the Livestock Management Facilities Act and (ii)  
3 that is located within an agricultural area established by a  
4 county under the Agricultural Areas Conservation and  
5 Protection Act.

6 To document this exemption, a purchaser must provide the  
7 retailer with a copy of the certification issued by the  
8 Pollution Control Board, along with a certification, verified  
9 by the purchaser, that the tangible personal property will be  
10 used primarily as a pollution control facility in an approved  
11 livestock management facility or livestock waste handling  
12 facility located in an agricultural area.

13 The provisions of this subsection (b) are exempt from  
14 Section 2-70.

15 (Source: P.A. 93-24, eff. 6-20-03.)

16 (35 ILCS 120/5k) (from Ch. 120, par. 444k)

17 Sec. 5k. Building materials exemption; enterprise zones  
18 and agricultural areas.

19 (a) Each retailer who makes a qualified sale of building  
20 materials to be incorporated into real estate in an enterprise  
21 zone established by a county or municipality under the Illinois  
22 Enterprise Zone Act by remodeling, rehabilitation or new  
23 construction, may deduct receipts from such sales when  
24 calculating the tax imposed by this Act. For purposes of this  
25 Section, "qualified sale" means a sale of building materials  
26 that will be incorporated into real estate as part of a  
27 building project for which a Certificate of Eligibility for  
28 Sales Tax Exemption has been issued by the administrator of the  
29 enterprise zone in which the building project is located. To  
30 document the exemption allowed under this Section, the retailer  
31 must obtain from the purchaser a copy of the Certificate of  
32 Eligibility for Sales Tax Exemption issued by the administrator  
33 of the enterprise zone into which the building materials will

1 be incorporated. The Certificate of Eligibility for Sales Tax  
2 Exemption must contain:

3 (1) a statement that the building project identified in  
4 the Certificate meets all the requirements for the building  
5 material exemption contained in the enterprise zone  
6 ordinance of the jurisdiction in which the building project  
7 is located;

8 (2) the location or address of the building project;  
9 and

10 (3) the signature of the administrator of the  
11 enterprise zone in which the building project is located.

12 In addition, the retailer must obtain certification from the  
13 purchaser that contains:

14 (1) a statement that the building materials are being  
15 purchased for incorporation into real estate located in an  
16 Illinois enterprise zone;

17 (2) the location or address of the real estate into  
18 which the building materials will be incorporated;

19 (3) the name of the enterprise zone in which that real  
20 estate is located;

21 (4) a description of the building materials being  
22 purchased; and

23 (5) the purchaser's signature and date of purchase.

24 The deduction allowed by this Section for the sale of building  
25 materials may be limited, to the extent authorized by  
26 ordinance, adopted after the effective date of this amendatory  
27 Act of 1992, by the municipality or county that created the  
28 enterprise zone into which the building materials will be  
29 incorporated. The ordinance, however, may neither require nor  
30 prohibit the purchase of building materials from any retailer  
31 or class of retailers in order to qualify for the exemption  
32 allowed under this Section.

33 (b) Beginning July 1, 2005, each retailer who makes a  
34 qualified sale of building materials to be incorporated into

1 real estate as part of a livestock management facility,  
2 livestock pasture operation, or livestock waste handling  
3 facility located in an agricultural area established by a  
4 county under the Agricultural Areas Conservation and  
5 Protection Act by new construction, may deduct receipts from  
6 those sales when calculating the tax imposed by this Act. For  
7 purposes of this subsection, "qualified sale" means a sale of  
8 building materials that will be incorporated into real estate  
9 (i) in a livestock management facility or livestock waste  
10 handling facility that has been approved by the Department of  
11 Agriculture under the provisions of the Livestock Management  
12 Facilities Act or (ii) in a livestock pasture operation that is  
13 not subject to the Livestock Management Facilities Act, as  
14 provided in the definition of "livestock management facility"  
15 in that Act. For purposes of this subsection, the terms  
16 "livestock management facility" and "livestock waste handling  
17 facility" have the meanings set forth in Sections 10.30 and  
18 10.40 of the Livestock Management Facilities Act.

19 To be eligible for the exemption under this subsection, the  
20 livestock management facility, livestock pasture operation, or  
21 livestock waste handling facility must be located within an  
22 agriculture area established by a county pursuant to the  
23 provisions of the Agricultural Areas Conservation and  
24 Protection Act. To document the exemption allowed under this  
25 subsection, the retailer must obtain from the purchaser a copy  
26 of a Certificate of Eligibility for Sales Tax Exemption issued  
27 by the Department of Agriculture, based on information provided  
28 to the Department of Agriculture by the county board governing  
29 the agricultural area into which the building materials will be  
30 incorporated. The Certificate of Eligibility for Sales Tax  
31 Exemption must contain:

- 32 (1) a certification by the Department of Agriculture  
33 (i) that the livestock management facility, livestock  
34 pasture operation, or livestock waste handling facility



1 has been approved by the Department of Agriculture under  
2 the provisions of the Livestock Management Facilities Act  
3 or (ii) that the facility is otherwise exempt from such  
4 approval;

5 (2) the location or address of the livestock management  
6 facility, livestock pasture operation, or livestock waste  
7 handling facility; and

8 (3) a certification by the Department of Agriculture  
9 that the livestock management facility, livestock pasture  
10 operation, or livestock waste handling facility is located  
11 within an agricultural area established by a county under  
12 the provisions of the Agricultural Areas Conservation and  
13 Protection Act and reported by the county to the Department  
14 of Agriculture.

15 In addition, the retailer must obtain certification from the  
16 purchaser that contains:

17 (1) a statement that the building materials are being  
18 purchased for incorporation into real estate at a livestock  
19 management facility, livestock pasture operation, or  
20 livestock waste handling facility that has been approved by  
21 the Department of Agriculture or that is exempt from  
22 approval and that is located in an Illinois agricultural  
23 area;

24 (2) the location or address of the livestock management  
25 facility, livestock pasture operation, or livestock waste  
26 handling facility into which the building materials will be  
27 incorporated;

28 (3) the name of the agricultural area in which the  
29 livestock management facility, livestock pasture  
30 operation, or livestock waste handling facility is  
31 located;

32 (4) a description of the building materials being  
33 purchased; and

34 (5) the purchaser's signature and date of purchase.

1           (c) The provisions of this Section are exempt from Section  
2           2-70.

3           (Source: P.A. 91-51, eff. 6-30-99; 91-954, eff. 1-1-02; 92-484,  
4           eff. 8-23-01; 92-779, eff. 8-6-02.)

5           Section 99. Effective date. This Act takes effect upon  
6           becoming law."