



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0130

Introduced 1/31/2007, by Sen. Mike Jacobs

SYNOPSIS AS INTRODUCED:

New Act

20 ILCS 2420/Act rep.

35 ILCS 105/3-5

35 ILCS 110/3-5

35 ILCS 115/3-5

35 ILCS 120/2-5

from Ch. 120, par. 439.3-5

from Ch. 120, par. 439.33-5

from Ch. 120, par. 439.103-5

from Ch. 120, par. 441-5

Creates the Blind Vendors Act. Requires that the Department of Human Services, Bureau of Blind Services, operate and promote the Business Enterprise Program for the Blind, with the federal Randolph-Sheppard Act and regulations serving as the minimum operating standards. Requires that: (1) blind vendors have priority in the operation of all vending facilities on State property; (2) vending machine income from all vending machines on State property shall be assigned to the blind vendor on the property or to the Blind Vendors Trust Fund; (3) no State agency may impose any commission, service charge, rent, or utility charge on a blind vendor operating on State property; (4) sales made at a blind vendor's vending facility are exempt from all occupation and use taxes; and (5) State agencies may not allow competition with a blind vendor. Exempts certain State property from the Act's application. Provides for the implementation, administration, and financing of the program and for the regulation and licensing of participating blind vendors. Preempts home rule powers. Repeals the Blind Persons Operating Vending Facilities Act. Amends the Use Tax Act, Service Use Tax Act, Service Occupation Tax Act, and Retailer's Occupation Tax Act to exempt from taxation (without sunset) personal property purchased from a blind vendor's vending facility licensed by the Department of Human Services under the Blind vendors Act.

LRB095 03855 JAM 23886 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

1 AN ACT concerning State government.

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

4 Section 1. Short title. This Act may be cited as the Blind
5 Vendors Act.

6 Section 5. Definitions. As used in this Act:

7 "Assistant Director" means the individual primarily
8 responsible for the State's management and operation of the
9 Business Enterprise Program for the Blind.

10 "Blind licensee" means a blind person licensed by the
11 Department to operate a vending facility on State, federal, or
12 other property.

13 "Blind person" means a person whose central visual acuity
14 does not exceed 20/200 in the better eye with correcting lenses
15 or whose visual acuity, if better than 20/200, is accompanied
16 by a limit to the field of vision in the better eye to such a
17 degree that its widest diameter subtends an angle of no greater
18 than 20 degrees. In determining whether an individual is blind,
19 there shall be an examination by a physician skilled in
20 diseases of the eye, or by an optometrist, whichever the
21 individual shall select.

22 "Cafeteria" means a food dispensing facility capable of
23 providing a broad variety of prepared foods and beverages

1 (including hot meals) primarily through the use of a line where
2 the customer serves himself from displayed selections. A
3 cafeteria may be fully automatic or some limited waiter or
4 waitress service may be available and provided within a
5 cafeteria and table or booth seating facilities are always
6 provided.

7 "Committee" means the Illinois Committee of Blind Vendors,
8 an independent representative body for blind vendors
9 established by the federal Randolph-Sheppard Act.

10 "Department" means the Department of Human Services.

11 "Director" means the Bureau Director of the Bureau for the
12 Blind in the Department of Human Services.

13 "Federal property" means any building, land, or other real
14 property owned, leased, or occupied by any department, agency
15 or instrumentality of the United States (including the
16 Department of Defense and the U.S. Postal Service), or any
17 other instrumentality wholly owned by the United States, or by
18 any department or agency of the District of Columbia or any
19 territory or possession of the United States.

20 "License" means a written instrument issued by the
21 Department to a blind person, authorizing such person to
22 operate a vending facility on State, federal, or other
23 property.

24 "Net proceeds" means the amount remaining from the sale of
25 articles or services of vending facilities, and any vending
26 machine or other income accruing to blind vendors after

1 deducting the cost of such sale and other expenses (excluding
2 any set-aside charges required to be paid by the blind
3 vendors).

4 "Normal working hours" means an 8 hour work period between
5 the approximate hours of 8:00 a.m. to 6:00 p.m., Monday through
6 Friday.

7 "Other property" means property that is not State or
8 federal property and on which vending facilities are
9 established or operated by the use of any funds derived in
10 whole or in part, directly or indirectly, from the operation of
11 vending facilities on any State or federal property.

12 "Secretary" means the Secretary of Human Services.

13 "Set-aside funds" means funds that accrue to the Department
14 from an assessment against the net proceeds of each vending
15 facility in the State's vending facility program and any income
16 from vending machines on State or federal property that accrues
17 to the Department.

18 "State agency" means any department, board, commission, or
19 agency created by the Constitution or Public Act, whether in
20 the executive, legislative or judicial branch.

21 "State property" means all real property, or part thereof,
22 owned, leased, rented, or otherwise controlled or occupied by
23 any agency, department, or other governing body of this State.
24 For purposes of this Act, "State property" does not include
25 property owned or controlled by a unit of local government or
26 school district.

1 "Vending facility" means automatic vending machines,
2 cafeterias, snack bars, cart service, shelters, counters, and
3 such other appropriate auxiliary equipment that may be operated
4 by blind licensees and which is necessary for the sale of
5 newspapers, periodicals, confections, tobacco products, foods,
6 beverages, and other articles or services dispensed
7 automatically or manually and prepared on or off the premises
8 in accordance with all applicable health laws, and including
9 the vending or exchange of changes for any lottery authorized
10 by State law and conducted by a State agency within the State.

11 "Vending machine", for the purpose of assigning vending
12 machine income under this Act, means a coin or currency
13 operated machine which dispenses articles or services, except
14 that those machines operated by the United States Postal
15 Service for the sale of postage stamps or other postal products
16 and services, machines providing services of a recreational
17 nature, and telephones shall not be considered to be vending
18 machines.

19 "Vending machine income" means receipts (other than those
20 of a blind vendor) from vending machine operations on State or
21 federal property, after deducting the cost of goods sold
22 (including reasonable service and maintenance costs in
23 accordance with customary business practices of commercial
24 vending concerns), where the machines are operated, serviced,
25 or maintained by, or with the approval of, a department,
26 agency, or instrumentality of the United States or the State of

1 Illinois, or commissions paid (other than to a blind vendor) by
2 a commercial vending concern that operates, services, and
3 maintains vending machines on State or federal property for, or
4 with the approval of, a department, agency, or instrumentality
5 of the United States or the State of Illinois.

6 "Vendor" means a blind licensee who is operating a vending
7 facility on State, federal, or other property.

8 Section 10. Business Enterprise Program for the Blind.

9 (a) The Business Enterprise Program for the Blind is
10 created for the purpose of providing blind persons with
11 remunerative employment, enlarging the economic opportunities
12 of the blind, and stimulating the blind to greater efforts in
13 striving to make themselves self-supporting. In order to
14 achieve these goals blind persons licensed under this Act shall
15 be authorized to operate vending facilities on any property
16 within this State as provided by this Act.

17 It is the intent of the General Assembly that the
18 Randolph-Sheppard Act, 20 U. S. C. §§107-107f, and the federal
19 regulations for its administration set forth in Part 395 of
20 Title 34 of the Code of Federal Regulations, shall serve as the
21 minimum standards for the operation of the Business Enterprise
22 Program for the Blind.

23 (b) The Secretary, through the Director, shall continue,
24 maintain, and promote the Business Enterprise Program for the
25 Blind. Some or all of the functions of the program may be

1 provided by the Department of Human Services. The Business
2 Enterprise Program for the Blind must provide that:

3 (1) priority is given to blind vendors in the operation
4 of vending facilities on State property;

5 (2) vending machine income from all vending machines on
6 State property is assigned as provided for by Section 30 of
7 this Act;

8 (3) no State agency may impose any commission, service
9 charge, rent, or utility charge on a licensed blind vendor
10 who is operating a vending facility on State property;

11 (4) sales made at a blind vendor's vending facility are
12 exempt from all occupation and use taxes; and

13 (5) State agencies and units of local government may
14 not allow competition with a blind vendor. For purposes of
15 this item (5), "competition" includes, but is not limited
16 to, vending machines, coffee services, or other commercial
17 mechanisms in the same building as a licensed blind vendor.
18 "Competition" does not include bake sales or other
19 non-commercial fund raising activities.

20 (c) With respect to vending facilities on federal property
21 within this State, priority shall be given as provided in the
22 federal Randolph-Sheppard Act, 20 U. S. C. §§107-107f,
23 including any amendments thereto. This Act, as it applies to
24 federal property, is intended to conform to the federal Act,
25 and is to be of no force or effect if, and to the extent that,
26 any provision of this Act or any regulation adopted under this

1 Act is in conflict with the federal Act. Nothing in this
2 subsection shall be construed to impose limitations on the
3 operation of vending facilities on State property, or property
4 other than federal property, or to allow only those activities
5 specifically enumerated in the Randolph-Sheppard Act.

6 (d) On all other property within this State, whether owned
7 or controlled privately or by a unit of local government or
8 school district, the Department directly or by delegation shall
9 take all feasible steps to encourage and establish vending by
10 blind persons licensed under this Act. The Department may enter
11 into appropriate agreements with the entities or persons owning
12 or controlling the property. All such agreements shall be in
13 writing and shall be in conformity with this Act.

14 (e) The Assistant Director shall actively pursue all
15 commissions from vending facilities not operated by blind
16 vendors as provided in Section 30 of this Act, and shall
17 propose new placements of vending facilities on State property
18 where a facility is not yet in place.

19 (f) Partnerships and teaming arrangements between blind
20 vendors and private industry, including franchise operations,
21 shall be fostered and encouraged by the Department.

22 (g) Notwithstanding any provision to the contrary, this Act
23 does not apply to the "State Fairgrounds" as defined in the
24 State Fair Act, any Department of Natural Resources
25 subcontract, or the World Shooting and Recreation Complex.

1 Section 15. Vending facilities on State property.

2 (a) In order to ensure that priority is given to blind
3 vendors in the operation of vending facilities on State
4 property as provided in Section 10, the Director, directly or
5 by delegation to the Assistant Director, and the Committee
6 shall jointly develop regulations to ensure the following:

7 (1) That priority is given to blind persons licensed
8 under this Act or under its predecessor Act (the Blind
9 Persons Operating Vending Facilities Act 20 ILCS 2420/),
10 including the assignment of vending machine income as
11 provided in this Act.

12 (2) That one or more vending facilities shall be
13 established on all State property to the extent feasible.
14 Where a larger vending facility is determined by the
15 Director and the Committee to be infeasible, every effort
16 shall be made to place vending machines on the property
17 whenever possible. The Director and the Committee shall
18 take into account the following criteria when determining
19 whether establishment of a vending facility is feasible:

20 (A) the number of State employees, visitors, and
21 other potential facility customers on the property in a
22 given period;

23 (B) the size, in square feet, of the area owned,
24 leased, occupied, or otherwise controlled by the
25 State;

26 (C) the duration the property is expected to be

1 leased or occupied by the State;

2 (D) whether establishment of a vending facility
3 would adversely affect the interests of the State; and

4 (E) the likelihood that the vending facility would
5 produce an adequate net income for a blind vendor as
6 determined by the average income of all blind vendors
7 in the State.

8 (b) Any determination by the Director, or by the agency or
9 department controlling the property, that the placement or
10 operation of a vending facility is not feasible, or that the
11 placement or operation would adversely affect the interests of
12 the State shall be in writing and shall be transmitted to the
13 Committee for review and ratification or rejection.

14 (c) The Director, through the Assistant Director, subject
15 to the regulations developed and adopted pursuant to subsection
16 (a) of this Section and the requirements of federal law and
17 regulations, is authorized to select a location for a vending
18 facility and the type of facility to be provided.

19 (d) Upon the development of plans by any State agency to
20 occupy, acquire, renovate, or relocate a property, the State
21 agency shall notify the Director, who shall determine whether
22 the plans include a satisfactory site or sites for one or more
23 vending facilities.

24 (e) After January 1, 2006, no State agency shall undertake
25 to acquire by ownership, rent or lease, or to otherwise occupy,
26 in whole or in part, any property unless, after consultation

1 with the head of the State agency, it is determined by the
2 Director in accordance with regulations developed pursuant to
3 subsection (a) either: (1) that the property includes a
4 satisfactory site or sites for the location and operation of a
5 vending facility by a blind person; or (2) that, if a building
6 is to be constructed, substantially altered, or renovated, or,
7 in the case of a building that is already occupied by the State
8 agency, is to be substantially altered or renovated for use by
9 the State agency, the design for the construction, substantial
10 alteration, or renovation includes a satisfactory site or sites
11 for the location and operation of a vending facility by a blind
12 person. Each State agency permitting the operation of vending
13 facilities on State property shall ensure strict adherence to
14 the priority established for the operation of vending
15 facilities by blind persons pursuant to this Act.

16 (f) The provisions of subsection (e) shall not apply when
17 the Director, in consultation with the Committee, determines
18 that the number of people using the location is or will be
19 insufficient to support a vending facility.

20 Section 20. Other vending facilities. The governing body of
21 any unit of local government or school board owning property or
22 persons or entities owning or controlling private property are
23 authorized and encouraged to construct or install on the
24 property, or permit the construction or installation of,
25 vending facilities for operation by blind persons licensed

1 under this Act. In constructing or installing these vending
2 facilities, the amount of space allotted for this purpose
3 should be sufficient to adequately serve the number of persons
4 at the site and to provide the kind of services to be rendered.

5 Section 25. Set-aside funds; Blind Vendors Trust Fund.

6 (a) The Department may provide, by regulation, for
7 set-asides similar to those provided in Section 107d-3 of the
8 Randolph-Sheppard Act. If any funds are set aside, or caused to
9 be set aside, from the net proceeds of the operation of vending
10 facilities by blind vendors, the funds shall be set aside only
11 to the extent necessary in a percentage amount not to exceed
12 that determined jointly by the Director and the Committee and
13 published in State regulation, and that these funds may be used
14 only for the following purposes: (1) maintenance and
15 replacement of equipment; (2) purchase of new equipment; (3)
16 construction of new vending facilities; (4) funding the
17 functions of the Committee, including legal and other
18 professional services; and (5) retirement or pension funds,
19 health insurance, paid sick leave, and vacation time for blind
20 licensees, so long as these benefits are approved by a majority
21 vote of all blind vendors that occurs after the Department
22 provides these vendors with information on all matters relevant
23 to these purposes.

24 (b) No set-aside funds shall be collected from a blind
25 vendor when the monthly net proceeds of that vendor are less

1 than \$1,000. This amount may be adjusted annually by the
2 Director and the Committee to reflect changes in the cost of
3 living.

4 (c) The Department shall establish, with full
5 participation by the Committee, the Blind Vendors Trust Fund as
6 a separate account managed by the Department for the State's
7 blind vendors.

8 (d) Set-aside funds collected from the operation of all
9 vending facilities administered by the Business Enterprise
10 Program for the Blind shall be placed in the Blind Vendors
11 Trust Fund which shall include set-aside funds from facilities
12 on federal property. The Fund must provide separately
13 identified sub-accounts for moneys from (i) federal, and (ii)
14 State and other facilities, as well as vending machine income
15 generated pursuant to Section 30 of this Act. These funds shall
16 be available until expended and shall not revert to the General
17 Revenue Fund or to any other State account.

18 (e) It is the intent of the General Assembly that the
19 expenditure of set-aside funds authorized by this Section shall
20 be supplemental to any current appropriation or other moneys
21 made available for these purposes and shall not constitute an
22 offset or diminution of any previously existing appropriation
23 or other funding source.

24 (f) An amount equal to 10% of the wages paid by a blind
25 vendor to any employee who is blind or otherwise disabled shall
26 be deducted from any set-aside charge paid by the vendor each

1 month, in order to encourage vendors to employ blind and
2 disabled workers and to set an example for industry and
3 government. No deduction shall be made for any employee paid
4 less than the State or federal minimum wage.

5 Section 30. Vending machine income and compliance.

6 (a) After January 1, 2006, all vending machine income from
7 vending machines on State property shall accrue to (1) the
8 blind vendor operating the vending facilities on the property,
9 or (2) in the event there is no blind vendor operating a
10 facility on the property, to the Blind Vendors Trust Fund for
11 use exclusively as set forth in subsection (a) of Section 25 of
12 this Act.

13 (b) The Secretary, directly or by delegation of authority,
14 shall ensure compliance with this Section and Section 15 of
15 this Act with respect to buildings, installations, facilities,
16 roadside rest stops, and any other State property, and shall be
17 responsible for the collection of, and accounting for, all
18 vending machine income on this property. The Secretary shall
19 enforce these provisions through litigation, arbitration, or
20 any other legal means available to the State, and each State
21 agency in control of this property shall be subject to the
22 enforcement. State agencies or departments failing to comply
23 with an order of the Department may be held in contempt in any
24 court of general jurisdiction.

25 (c) Any limitation on the placement or operation of a

1 vending machine by a State agency based on a determination that
2 such placement or operation would adversely affect the
3 interests of the State must be explained in writing to the
4 Secretary. The Secretary shall promptly determine whether the
5 limitation is justified. If the Secretary determines that the
6 limitation is not justified, the State agency seeking the
7 limitation shall immediately remove the limitation.

8 (d) The amount of vending machine income accruing from
9 vending machines on State property that may be used for the
10 functions of the Committee shall be determined annually by a
11 two-thirds vote of the Committee, except that no more than 25%
12 of the annual vending machine income may be used by the
13 Committee for this purpose, based upon the income accruing to
14 the Blind Vendors Trust Fund in the preceding year. The
15 Committee may establish its budget and expend funds through
16 contract or otherwise without the approval of the Department.

17 (e) With respect to vending machines located on any
18 facility or property controlled or operated by the Division of
19 Developmental Disabilities or the Division of Mental Health
20 within the Department of Human Services:

21 (1) Any written contract in place as of the effective
22 date of this Act between either Division and the Business
23 Enterprise for the Blind shall be maintained and fully
24 adhered to, including any moneys paid to the individual
25 facilities.

26 (2) With respect to written contracts in place as of

1 the effective date of this Act between either Division and
2 a private vendor, bottler, or vending machine supplier, the
3 Business Enterprise Program for the Blind has the right to
4 provide the services at those facilities upon completion of
5 the existing contract or upon material breach of that
6 contract if the Program matches or exceeds the existing
7 financial terms of the completed or breached contract.

8 (3) With respect to existing vending machines with no
9 written contract or agreement in place as of the effective
10 date of this Act between either Division and a private
11 vendor, bottler, or vending machine supplier, the Business
12 Enterprise Program for the Blind has the right to provide
13 the vending services as provided in this Act, provided that
14 the blind vendor must provide 10% of net sales from those
15 machines to the individual facilities.

16 Section 40. Licenses.

17 (a) Licenses shall be issued only to blind persons who are
18 qualified to operate vending facilities. The continuing
19 eligibility of a vendor as a blind person shall be reviewed
20 biennially for partially sighted individuals or whenever the
21 Director has information indicating the vendor is no longer
22 blind as defined under this Act.

23 (b) Following agreement by the Director, the Assistant
24 Director, and the Committee, the Secretary shall adopt and
25 publish regulations providing for (1) the requirements for

1 licensure as a blind vendor; (2) a curriculum for training,
2 in-service training, and upward mobility training for blind
3 vendors; and (3) a regular schedule for offering the training,
4 classes to be offered at least once per year.

5 (c) Each license issued pursuant to this Section shall be
6 for an indefinite period. The license of a blind vendor may be
7 terminated or suspended for good cause, but only after
8 affording the licensee an opportunity for a full and fair
9 hearing in accordance with the provisions of this Act.

10 Section 45. Committee of Blind Vendors.

11 (a) The Director, through the Assistant Director, shall
12 provide for the biennial election of the Committee, which shall
13 be fully representative of all blind licensees in the State.
14 There shall be no fewer than one committee member for each 15
15 licensed blind vendors in the State.

16 (b) The Committee is empowered to hire staff; contract for
17 consultants including, but not limited to, legal counsel; set
18 agendas and call meetings; create a constitution and bylaws,
19 subcommittees, and budgets; and do any other thing a
20 not-for-profit organization may do. At the discretion of the
21 Committee major issues may be referred for initial
22 consideration to a subcommittee, or to all blind vendors in
23 order to ascertain their views. The Committee is not a State
24 agency, board, or commission and is not subject to State
25 ethics, sunshine, or procurement laws.

1 (c) The Secretary shall ensure that the Committee jointly
2 participates with the State in the development and
3 implementation of all policies, plans, program development,
4 and major administrative and management decisions affecting
5 the Business Enterprise Program for the Blind. The Director,
6 through the Assistant Director, shall provide to the Committee
7 all relevant financial information and data, including
8 quarterly and annual financial reports, on the operation of the
9 vending facility program in order that the Committee may fully
10 participate in budget development and formulation, the
11 establishment of set-aside levels, and other program
12 requirements. A copy of all completed audits, reports, and
13 investigations affecting the Business Enterprise Program for
14 the Blind shall be distributed to the Committee in a timely
15 manner. Any implementation of changes in administrative policy
16 or program development that are within the discretion of the
17 Department shall occur only after Committee review.

18 Section 50. Hearings; arbitration.

19 (a) Any blind vendor dissatisfied with any act or omission
20 arising from the operation or administration of the vending
21 facility program may submit to the Assistant Director a request
22 for a full evidentiary hearing. This hearing shall be provided
23 in a timely manner by the Department. Damages, including
24 compensatory damages, attorney's fees, and expenses, must be
25 paid to any operator who prevails in the full evidentiary

1 hearing; however, payment of damages may only be paid from the
2 general funds of the State treasury and not from any program
3 funds, the Blind Vendors Trust Fund, or federal rehabilitation
4 funds. If the blind vendor is dissatisfied with any action
5 taken or decision rendered as a result of the hearing, that
6 vendor may file a complaint for arbitration with the Secretary.

7 (b) If the Secretary determines that any State agency has
8 failed to comply with the requirements of this Act, the
9 Secretary must establish a panel to arbitrate the dispute and
10 the decision of the panel shall be final and binding on the
11 parties. Any arbitration panel convened by the Secretary shall
12 be composed of 3 members, appointed as follows:

13 (1) one individual appointed by the Secretary;

14 (2) one individual appointed by the State agency
15 determined by the Secretary to be in noncompliance with the
16 Act; and

17 (3) one individual, who shall serve as chairman,
18 jointly designated by the members appointed under items (1)
19 and (2); provided that, if within 30 days following the
20 Secretary's determination of noncompliance either party
21 fails to appoint a panel member, or if the parties are
22 unable to agree on the appointment of the chairman, the
23 Secretary shall select the final panel member or may
24 designate a hearing officer of the Department who shall
25 preside.

26 (c) The Assistant Director may issue a letter of reprimand

1 to a blind vendor who violates program regulations or policy.
2 Depending upon the seriousness of the alleged violation, the
3 letter of reprimand may indicate the intention to suspend or
4 terminate the license of the vendor. All reprimand letters
5 shall be sent in a medium accessible by the vendor, and shall
6 be sent by certified mail, return receipt requested. The
7 Assistant Director must make every reasonable effort to assist
8 the subject vendor to correct the problem for which the vendor
9 is reprimanded. No process to suspend or terminate a license
10 shall be initiated before the vendor is accorded the
11 opportunity for a full evidentiary hearing as provided under
12 subsection (a). A vendor may be summarily removed from a
13 facility only in an emergency.

14 Section 60. General provisions.

15 (a) Blind vendors operating vending facilities are subject
16 to the applicable license or permit requirements of the county
17 or city in which the facility is located necessary for the
18 conduct of their business; however, any such license or permit
19 shall be issued free of charge to vendors licensed by the
20 Department, and shall not be unreasonably withheld.

21 (b) Vendors licensed pursuant to this Act are authorized to
22 keep guide animals with them while operating vending
23 facilities.

24 (c) The Director, Assistant Director, and the Committee
25 shall cooperate in the development of regulations to be

1 promulgated by the Department regarding life standards for
2 vending facility equipment. Such regulations shall include,
3 but are not limited to, the life expectancy of equipment; time
4 periods within which equipment should be replaced; exceptions
5 to the replacement time periods for equipment with no service
6 problem history, and replacement schedules for equipment
7 subject to excessive failures not the fault of the vendor.

8 (d) The Secretary, through the Director, shall assign
9 adequate personnel to carry out duties related to the
10 administration and management of this Act. In selecting
11 personnel to fill any program position under this subsection,
12 the Secretary shall ensure that the Committee has full advance
13 opportunity to review the selections, to submit comments
14 thereon, and to assess the adequacy of staffing levels for the
15 program.

16 (e) The Assistant Director shall provide each vendor access
17 to: all financial information, his or her performance ratings,
18 and all other individual personnel documents and data
19 maintained by the Department. This includes providing each
20 vendor a written copy of all rules and policies adopted
21 pursuant to the Act. Upon request, the information shall be
22 furnished in the medium most accessible by the vendor.

23 (f) The surviving spouse of a vendor who dies during the
24 operation of a vending facility under this Act may continue to
25 operate the facility for a period of 6 months following the
26 death of the vendor, provided that the surviving spouse is

1 qualified by experience or training to manage the facility.

2 Section 65. Program regulations.

3 (a) The Secretary shall promulgate and adopt necessary
4 regulations, and do all things necessary and proper to carry
5 out this Act. The Secretary by delegation shall review these
6 regulations with the Committee at least every 3 years.

7 (b) The regulations shall include, but are not limited to,
8 the following: (1) uniform procedures for vendor licensing and
9 termination; (2) criteria and standards for selecting vendors
10 and matching them to facilities to ensure that the most
11 qualified person is selected; (3) equipment life standards and
12 service standards for the inventory, repair, and purchase of
13 equipment; (4) minimum requirements for the establishment of a
14 vending facility; (5) standards for training, in-service
15 training, and upward mobility; and (6) policies and procedures
16 for the collection, deposit, reimbursement, and use of all
17 program income, including vending machine income.

18 Section 70. Property Survey and Report.

19 (a) The Department shall survey and report on State
20 property and vending facilities not later than December 31,
21 2008. The report shall contain the following information:

22 (1) A list of all State property and all federal
23 buildings or other property within the State that does or
24 reasonably could accommodate a vending facility as

1 provided for in this Act or as provided for in the federal
2 Randolph-Sheppard Act.

3 (2) For the buildings or locations that have vending
4 facilities or vending machines in place, an indication of
5 the facilities operated by licensed blind vendors under the
6 Business Enterprise Program for the Blind and an indication
7 of the facilities operated by private entities.

8 (3) For the vending facilities or vending machines
9 operated by private entities, an indication of the
10 facilities from which commissions for the Business
11 Enterprise Program for the Blind have been or are being
12 collected.

13 (4) For the buildings or other property that do not
14 have vending facilities in place, an indication of the
15 locations where a vending facility could appropriately be
16 placed, or the reasons why a vending facility is not
17 feasible in the building or property.

18 (b) The Department shall obtain all available information
19 and conduct a survey, before June 30 of every odd-numbered year
20 after the effective date of this Act. This survey shall
21 identify but not be limited to the following information:

22 (1) The number and identity of the buildings owned,
23 leased, acquired, or occupied by the State.

24 (2) The number and identity of the State buildings
25 where vending facilities or vending machines are located.

26 (3) The number of employees located in or visiting

1 these buildings during normal working hours.

2 (4) The usable interior square footage of the building;
3 and

4 (5) Any other information the Department may determine
5 to be useful in expanding the Business Enterprise Program
6 for the Blind to the maximum extent feasible consistent
7 with the purposes of this Act.

8 (c) All State agencies controlling State property or parts
9 thereof where vending machines or vending facilities are
10 located must cooperate with the Department by providing
11 information on the vending machines or facilities at those
12 locations. This information shall include, but is not limited
13 to, the terms of contracts for vending, including financial
14 terms, and the disbursement practices for vending machine
15 income. The Department shall incorporate this information in
16 its reports and updates.

17 (d) The Department shall use the reports and updates
18 mandated by this Section to develop greater opportunities for
19 the placement of blind vendors, to increase vending machine
20 income to the program, and to aid in establishing vending
21 machines and facilities on State property.

22 (e) The reports and surveys prepared pursuant to this
23 Section shall be provided to the Committee and to the
24 appropriate committees of the General Assembly.

25 Section 85. Home rule. A home rule unit may not impose or

1 collect any occupation or use tax with respect to sales made at
2 a blind vendor's vending facility. This Section is a denial and
3 limitation of home rule powers and functions under subsection
4 (g) of Section 6 of Article VII of the Illinois Constitution.

5 (20 ILCS 2420/Act rep.)

6 Section 90. The Blind Persons Operating Vending Facilities
7 Act is repealed.

8 Section 93. The Use Tax Act is amended by changing Section
9 3-5 as follows:

10 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

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

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

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

23 (3) Personal property purchased by a not-for-profit arts or

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

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

1 shall make tax-free purchases unless it has an active exemption
2 identification number issued by the Department.

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

6 (6) Until July 1, 2003 and beginning again on September 1,
7 2004, graphic arts machinery and equipment, including repair
8 and replacement parts, both new and used, and including that
9 manufactured on special order, certified by the purchaser to be
10 used primarily for graphic arts production, and including
11 machinery and equipment purchased for lease. Equipment
12 includes chemicals or chemicals acting as catalysts but only if
13 the chemicals or chemicals acting as catalysts effect a direct
14 and immediate change upon a graphic arts product.

15 (7) Farm chemicals.

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

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

23 (10) A motor vehicle of the first division, a motor vehicle
24 of the second division that is a self-contained motor vehicle
25 designed or permanently converted to provide living quarters
26 for recreational, camping, or travel use, with direct walk

1 through to the living quarters from the driver's seat, or a
2 motor vehicle of the second division that is of the van
3 configuration designed for the transportation of not less than
4 7 nor more than 16 passengers, as defined in Section 1-146 of
5 the Illinois Vehicle Code, that is used for automobile renting,
6 as defined in the Automobile Renting Occupation and Use Tax
7 Act.

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

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

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

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

24 (13) Proceeds of mandatory service charges separately
25 stated on customers' bills for the purchase and consumption of
26 food and beverages purchased at retail from a retailer, to the

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

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

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

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

26 (17) Until July 1, 2003, distillation machinery and

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

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

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

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

24 (21) Horses, or interests in horses, registered with and
25 meeting the requirements of any of the Arabian Horse Club
26 Registry of America, Appaloosa Horse Club, American Quarter

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

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

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

21 (24) Beginning with taxable years ending on or after
22 December 31, 1995 and ending with taxable years ending on or
23 before December 31, 2004, personal property that is donated for
24 disaster relief to be used in a State or federally declared
25 disaster area in Illinois or bordering Illinois by a
26 manufacturer or retailer that is registered in this State to a

1 corporation, society, association, foundation, or institution
2 that has been issued a sales tax exemption identification
3 number by the Department that assists victims of the disaster
4 who reside within the declared disaster area.

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

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

23 (27) A motor vehicle, as that term is defined in Section
24 1-146 of the Illinois Vehicle Code, that is donated to a
25 corporation, limited liability company, society, association,
26 foundation, or institution that is determined by the Department

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

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

1 from the sale to the fundraising entity. This paragraph is
2 exempt from the provisions of Section 3-90.

3 (29) Beginning January 1, 2000 and through December 31,
4 2001, new or used automatic vending machines that prepare and
5 serve hot food and beverages, including coffee, soup, and other
6 items, and replacement parts for these machines. Beginning
7 January 1, 2002 and through June 30, 2003, machines and parts
8 for machines used in commercial, coin-operated amusement and
9 vending business if a use or occupation tax is paid on the
10 gross receipts derived from the use of the commercial,
11 coin-operated amusement and vending machines. This paragraph
12 is exempt from the provisions of Section 3-90.

13 (30) Beginning January 1, 2001 and through June 30, 2011,
14 food for human consumption that is to be consumed off the
15 premises where it is sold (other than alcoholic beverages, soft
16 drinks, and food that has been prepared for immediate
17 consumption) and prescription and nonprescription medicines,
18 drugs, medical appliances, and insulin, urine testing
19 materials, syringes, and needles used by diabetics, for human
20 use, when purchased for use by a person receiving medical
21 assistance under Article 5 of the Illinois Public Aid Code who
22 resides in a licensed long-term care facility, as defined in
23 the Nursing Home Care Act.

24 (31) Beginning on the effective date of this amendatory Act
25 of the 92nd General Assembly, computers and communications
26 equipment utilized for any hospital purpose and equipment used

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

23 (32) Beginning on the effective date of this amendatory Act
24 of the 92nd General Assembly, personal property purchased by a
25 lessor who leases the property, under a lease of one year or
26 longer executed or in effect at the time the lessor would

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

20 (33) On and after July 1, 2003 and through June 30, 2004,
21 the use in this State of motor vehicles of the second division
22 with a gross vehicle weight in excess of 8,000 pounds and that
23 are subject to the commercial distribution fee imposed under
24 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
25 1, 2004 and through June 30, 2005, the use in this State of
26 motor vehicles of the second division: (i) with a gross vehicle

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

13 (34) Beginning on and after the effective date of this
14 amendatory Act of the 95th General Assembly, personal property
15 purchased from a blind vendor's vending facility licensed by
16 the Department of Human Services under the Blind Vendors Act.
17 This paragraph is exempt from the provisions of Section 3-90.
18 (Source: P.A. 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840,
19 eff. 7-30-04; 93-1033, eff. 9-3-04; 94-1002, eff. 7-3-06.)

20 Section 94. The Service Use Tax Act is amended by changing
21 Section 3-5 as follows:

22 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)
23 Sec. 3-5. Exemptions. Use of the following tangible
24 personal property is exempt from the tax imposed by this Act:

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

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

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

26 (4) Legal tender, currency, medallions, or gold or silver

1 coinage issued by the State of Illinois, the government of the
2 United States of America, or the government of any foreign
3 country, and bullion.

4 (5) Until July 1, 2003 and beginning again on September 1,
5 2004, graphic arts machinery and equipment, including repair
6 and replacement parts, both new and used, and including that
7 manufactured on special order or purchased for lease, certified
8 by the purchaser to be used primarily for graphic arts
9 production. Equipment includes chemicals or chemicals acting
10 as catalysts but only if the chemicals or chemicals acting as
11 catalysts effect a direct and immediate change upon a graphic
12 arts product.

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

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

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

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

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

25 (8) Fuel and petroleum products sold to or used by an air
26 common carrier, certified by the carrier to be used for

1 consumption, shipment, or storage in the conduct of its
2 business as an air common carrier, for a flight destined for or
3 returning from a location or locations outside the United
4 States without regard to previous or subsequent domestic
5 stopovers.

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

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

24 (11) Proceeds from the sale of photoprocessing machinery
25 and equipment, including repair and replacement parts, both new
26 and used, including that manufactured on special order,

1 certified by the purchaser to be used primarily for
2 photoprocessing, and including photoprocessing machinery and
3 equipment purchased for lease.

4 (12) Until July 1, 2003, coal exploration, mining,
5 offhighway hauling, processing, maintenance, and reclamation
6 equipment, including replacement parts and equipment, and
7 including equipment purchased for lease, but excluding motor
8 vehicles required to be registered under the Illinois Vehicle
9 Code.

10 (13) Semen used for artificial insemination of livestock
11 for direct agricultural production.

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

18 (15) Computers and communications equipment utilized for
19 any hospital purpose and equipment used in the diagnosis,
20 analysis, or treatment of hospital patients purchased by a
21 lessor who leases the equipment, under a lease of one year or
22 longer executed or in effect at the time the lessor would
23 otherwise be subject to the tax imposed by this Act, to a
24 hospital that has been issued an active tax exemption
25 identification number by the Department under Section 1g of the
26 Retailers' Occupation Tax Act. If the equipment is leased in a

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

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

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

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

18 (18) Beginning with taxable years ending on or after
19 December 31, 1995 and ending with taxable years ending on or
20 before December 31, 2004, personal property that is used in the
21 performance of infrastructure repairs in this State, including
22 but not limited to municipal roads and streets, access roads,
23 bridges, sidewalks, waste disposal systems, water and sewer
24 line extensions, water distribution and purification
25 facilities, storm water drainage and retention facilities, and
26 sewage treatment facilities, resulting from a State or

1 federally declared disaster in Illinois or bordering Illinois
2 when such repairs are initiated on facilities located in the
3 declared disaster area within 6 months after the disaster.

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

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

1 industrial, business, or commercial occupation.

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

16 (22) Beginning January 1, 2000 and through December 31,
17 2001, new or used automatic vending machines that prepare and
18 serve hot food and beverages, including coffee, soup, and other
19 items, and replacement parts for these machines. Beginning
20 January 1, 2002 and through June 30, 2003, machines and parts
21 for machines used in commercial, coin-operated amusement and
22 vending business if a use or occupation tax is paid on the
23 gross receipts derived from the use of the commercial,
24 coin-operated amusement and vending machines. This paragraph
25 is exempt from the provisions of Section 3-75.

26 (23) Beginning August 23, 2001 and through June 30, 2011,

1 food for human consumption that is to be consumed off the
2 premises where it is sold (other than alcoholic beverages, soft
3 drinks, and food that has been prepared for immediate
4 consumption) and prescription and nonprescription medicines,
5 drugs, medical appliances, and insulin, urine testing
6 materials, syringes, and needles used by diabetics, for human
7 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 (24) Beginning on the effective date of this amendatory Act
12 of the 92nd General Assembly, computers and communications
13 equipment utilized for any hospital purpose and equipment used
14 in the diagnosis, analysis, or treatment of hospital patients
15 purchased by a lessor who leases the equipment, under a lease
16 of one year or longer executed or in effect at the time the
17 lessor would otherwise be subject to the tax imposed by this
18 Act, to a hospital that has been issued an active tax exemption
19 identification number by the Department under Section 1g of the
20 Retailers' Occupation Tax Act. If the equipment is leased in a
21 manner that does not qualify for this exemption or is used in
22 any other nonexempt manner, the lessor shall be liable for the
23 tax imposed under this Act or the Use Tax Act, as the case may
24 be, based on the fair market value of the property at the time
25 the nonqualifying use occurs. No lessor shall collect or
26 attempt to collect an amount (however designated) that purports

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

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

1 refund of that amount from the lessor. If, however, that amount
2 is not refunded to the lessee for any reason, the lessor is
3 liable to pay that amount to the Department. This paragraph is
4 exempt from the provisions of Section 3-75.

5 (26) Beginning on and after the effective date of this
6 amendatory Act of the 95th General Assembly, personal property
7 purchased from a blind vendor's vending facility licensed by
8 the Department of Human Services under the Blind Vendors Act.
9 This paragraph is exempt from the provisions of Section 3-75.

10 (Source: P.A. 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;
11 94-1002, eff. 7-3-06.)

12 Section 95. The Service Occupation Tax Act is amended by
13 changing Section 3-5 as follows:

14 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

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

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

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

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

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

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

22 (5) Until July 1, 2003 and beginning again on September 1,
23 2004, graphic arts machinery and equipment, including repair
24 and replacement parts, both new and used, and including that
25 manufactured on special order or purchased for lease, certified
26 by the purchaser to be used primarily for graphic arts

1 production. Equipment includes chemicals or chemicals acting
2 as catalysts but only if the chemicals or chemicals acting as
3 catalysts effect a direct and immediate change upon a graphic
4 arts product.

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

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

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

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

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

24 (9) Proceeds of mandatory service charges separately
25 stated on customers' bills for the purchase and consumption of
26 food and beverages, to the extent that the proceeds of the

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

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

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

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

26 (13) Beginning January 1, 1992 and through June 30, 2011,

1 food for human consumption that is to be consumed off the
2 premises where it is sold (other than alcoholic beverages, soft
3 drinks and food that has been prepared for immediate
4 consumption) and prescription and non-prescription medicines,
5 drugs, medical appliances, and insulin, urine testing
6 materials, syringes, and needles used by diabetics, for human
7 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 (14) Semen used for artificial insemination of livestock
12 for direct agricultural production.

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

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

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

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

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

1 when such repairs are initiated on facilities located in the
2 declared disaster area within 6 months after the disaster.

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

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

1 (22) Beginning January 1, 2000, personal property,
2 including food, purchased through fundraising events for the
3 benefit of a public or private elementary or secondary school,
4 a group of those schools, or one or more school districts if
5 the events are sponsored by an entity recognized by the school
6 district that consists primarily of volunteers and includes
7 parents and teachers of the school children. This paragraph
8 does not apply to fundraising events (i) for the benefit of
9 private home instruction or (ii) for which the fundraising
10 entity purchases the personal property sold at the events from
11 another individual or entity that sold the property for the
12 purpose of resale by the fundraising entity and that profits
13 from the sale to the fundraising entity. This paragraph is
14 exempt from the provisions of Section 3-55.

15 (23) Beginning January 1, 2000 and through December 31,
16 2001, new or used automatic vending machines that prepare and
17 serve hot food and beverages, including coffee, soup, and other
18 items, and replacement parts for these machines. Beginning
19 January 1, 2002 and through June 30, 2003, machines and parts
20 for machines used in commercial, coin-operated amusement and
21 vending business if a use or occupation tax is paid on the
22 gross receipts derived from the use of the commercial,
23 coin-operated amusement and vending machines. This paragraph
24 is exempt from the provisions of Section 3-55.

25 (24) Beginning on the effective date of this amendatory Act
26 of the 92nd General Assembly, computers and communications

1 equipment utilized for any hospital purpose and equipment used
2 in the diagnosis, analysis, or treatment of hospital patients
3 sold to a lessor who leases the equipment, under a lease of one
4 year or longer executed or in effect at the time of the
5 purchase, to a hospital that has been issued an active tax
6 exemption identification number by the Department under
7 Section 1g of the Retailers' Occupation Tax Act. This paragraph
8 is exempt from the provisions of Section 3-55.

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

17 (26) Beginning on January 1, 2002 and through June 30,
18 2011, tangible personal property purchased from an Illinois
19 retailer by a taxpayer engaged in centralized purchasing
20 activities in Illinois who will, upon receipt of the property
21 in Illinois, temporarily store the property in Illinois (i) for
22 the purpose of subsequently transporting it outside this State
23 for use or consumption thereafter solely outside this State or
24 (ii) for the purpose of being processed, fabricated, or
25 manufactured into, attached to, or incorporated into other
26 tangible personal property to be transported outside this State

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

14 (27) Beginning on and after the effective date of this
15 amendatory Act of the 95th General Assembly, personal property
16 purchased from a blind vendor's vending facility licensed by
17 the Department of Human Services under the Blind Vendors Act.
18 This paragraph is exempt from the provisions of Section 3-55.

19 (Source: P.A. 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;
20 94-1002, eff. 7-3-06.)

21 Section 96. Retailers' Occupation Tax Act is amended by
22 changing Section 2-5 as follows:

23 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

24 Sec. 2-5. Exemptions. Gross receipts from proceeds from the

1 sale of the following tangible personal property are exempt
2 from the tax imposed by this Act:

3 (1) Farm chemicals.

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

23 Farm machinery and equipment shall include precision
24 farming equipment that is installed or purchased to be
25 installed on farm machinery and equipment including, but not
26 limited to, tractors, harvesters, sprayers, planters, seeders,

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

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

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

19 (4) Until July 1, 2003 and beginning again September 1,
20 2004, graphic arts machinery and equipment, including repair
21 and replacement parts, both new and used, and including that
22 manufactured on special order or purchased for lease, certified
23 by the purchaser to be used primarily for graphic arts
24 production. Equipment includes chemicals or chemicals acting
25 as catalysts but only if the chemicals or chemicals acting as
26 catalysts effect a direct and immediate change upon a graphic

1 arts product.

2 (5) A motor vehicle of the first division, a motor vehicle
3 of the second division that is a self-contained motor vehicle
4 designed or permanently converted to provide living quarters
5 for recreational, camping, or travel use, with direct walk
6 through access to the living quarters from the driver's seat,
7 or a motor vehicle of the second division that is of the van
8 configuration designed for the transportation of not less than
9 7 nor more than 16 passengers, as defined in Section 1-146 of
10 the Illinois Vehicle Code, that is used for automobile renting,
11 as defined in the Automobile Renting Occupation and Use Tax
12 Act.

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

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

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

22 (9) Personal property sold to a not-for-profit arts or
23 cultural organization that establishes, by proof required by
24 the Department by rule, that it has received an exemption under
25 Section 501(c)(3) of the Internal Revenue Code and that is
26 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

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

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

15 (12-5) On and after July 1, 2003 and through June 30, 2004,
16 motor vehicles of the second division with a gross vehicle
17 weight in excess of 8,000 pounds that are subject to the
18 commercial distribution fee imposed under Section 3-815.1 of
19 the Illinois Vehicle Code. Beginning on July 1, 2004 and
20 through June 30, 2005, the use in this State of motor vehicles
21 of the second division: (i) with a gross vehicle weight rating
22 in excess of 8,000 pounds; (ii) that are subject to the
23 commercial distribution fee imposed under Section 3-815.1 of
24 the Illinois Vehicle Code; and (iii) that are primarily used
25 for commercial purposes. Through June 30, 2005, this exemption
26 applies to repair and replacement parts added after the initial

1 purchase of such a motor vehicle if that motor vehicle is used
2 in a manner that would qualify for the rolling stock exemption
3 otherwise provided for in this Act. For purposes of this
4 paragraph, "used for commercial purposes" means the
5 transportation of persons or property in furtherance of any
6 commercial or industrial enterprise whether for-hire or not.

7 (13) Proceeds from sales to owners, lessors, or shippers of
8 tangible personal property that is utilized by interstate
9 carriers for hire for use as rolling stock moving in interstate
10 commerce and equipment operated by a telecommunications
11 provider, licensed as a common carrier by the Federal
12 Communications Commission, which is permanently installed in
13 or affixed to aircraft moving in interstate commerce.

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

26 (15) Proceeds of mandatory service charges separately

1 stated on customers' bills for purchase and consumption of food
2 and beverages, to the extent that the proceeds of the service
3 charge are in fact turned over as tips or as a substitute for
4 tips to the employees who participate directly in preparing,
5 serving, hosting or cleaning up the food or beverage function
6 with respect to which the service charge is imposed.

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

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

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

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

1 individual replacement part for oil field exploration,
2 drilling, and production equipment, and (vi) machinery and
3 equipment purchased for lease; but excluding motor vehicles
4 required to be registered under the Illinois Vehicle Code.

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

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

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

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

26 (24) Fuel consumed or used in the operation of ships,

1 barges, or vessels that are used primarily in or for the
2 transportation of property or the conveyance of persons for
3 hire on rivers bordering on this State if the fuel is delivered
4 by the seller to the purchaser's barge, ship, or vessel while
5 it is afloat upon that bordering river.

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

18 (25-5) The exemption under item (25) does not apply if the
19 state in which the motor vehicle will be titled does not allow
20 a reciprocal exemption for a motor vehicle sold and delivered
21 in that state to an Illinois resident but titled in Illinois.
22 The tax collected under this Act on the sale of a motor vehicle
23 in this State to a resident of another state that does not
24 allow a reciprocal exemption shall be imposed at a rate equal
25 to the state's rate of tax on taxable property in the state in
26 which the purchaser is a resident, except that the tax shall

1 not exceed the tax that would otherwise be imposed under this
2 Act. At the time of the sale, the purchaser shall execute a
3 statement, signed under penalty of perjury, of his or her
4 intent to title the vehicle in the state in which the purchaser
5 is a resident within 30 days after the sale and of the fact of
6 the payment to the State of Illinois of tax in an amount
7 equivalent to the state's rate of tax on taxable property in
8 his or her state of residence and shall submit the statement to
9 the appropriate tax collection agency in his or her state of
10 residence. In addition, the retailer must retain a signed copy
11 of the statement in his or her records. Nothing in this item
12 shall be construed to require the removal of the vehicle from
13 this state following the filing of an intent to title the
14 vehicle in the purchaser's state of residence if the purchaser
15 titles the vehicle in his or her state of residence within 30
16 days after the date of sale. The tax collected under this Act
17 in accordance with this item (25-5) shall be proportionately
18 distributed as if the tax were collected at the 6.25% general
19 rate imposed under this Act.

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

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

1 racing for prizes.

2 (28) Computers and communications equipment utilized for
3 any hospital purpose and equipment used in the diagnosis,
4 analysis, or treatment of hospital patients sold to a lessor
5 who leases the equipment, under a lease of one year or longer
6 executed or in effect at the time of the purchase, to a
7 hospital that has been issued an active tax exemption
8 identification number by the Department under Section 1g of
9 this Act.

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

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

25 (31) Beginning with taxable years ending on or after
26 December 31, 1995 and ending with taxable years ending on or

1 before December 31, 2004, personal property that is used in the
2 performance of infrastructure repairs in this State, including
3 but not limited to municipal roads and streets, access roads,
4 bridges, sidewalks, waste disposal systems, water and sewer
5 line extensions, water distribution and purification
6 facilities, storm water drainage and retention facilities, and
7 sewage treatment facilities, resulting from a State or
8 federally declared disaster in Illinois or bordering Illinois
9 when such repairs are initiated on facilities located in the
10 declared disaster area within 6 months after the disaster.

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

17 (33) A motor vehicle, as that term is defined in Section
18 1-146 of the Illinois Vehicle Code, that is donated to a
19 corporation, limited liability company, society, association,
20 foundation, or institution that is determined by the Department
21 to be organized and operated exclusively for educational
22 purposes. For purposes of this exemption, "a corporation,
23 limited liability company, society, association, foundation,
24 or institution organized and operated exclusively for
25 educational purposes" means all tax-supported public schools,
26 private schools that offer systematic instruction in useful

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

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

23 (35) Beginning January 1, 2000 and through December 31,
24 2001, new or used automatic vending machines that prepare and
25 serve hot food and beverages, including coffee, soup, and other
26 items, and replacement parts for these machines. Beginning

1 January 1, 2002 and through June 30, 2003, machines and parts
2 for machines used in commercial, coin-operated amusement and
3 vending business if a use or occupation tax is paid on the
4 gross receipts derived from the use of the commercial,
5 coin-operated amusement and vending machines. This paragraph
6 is exempt from the provisions of Section 2-70.

7 (35-5) Beginning August 23, 2001 and through June 30, 2011,
8 food for human consumption that is to be consumed off the
9 premises where it is sold (other than alcoholic beverages, soft
10 drinks, and food that has been prepared for immediate
11 consumption) and prescription and nonprescription medicines,
12 drugs, medical appliances, and insulin, urine testing
13 materials, syringes, and needles used by diabetics, for human
14 use, when purchased for use by a person receiving medical
15 assistance under Article 5 of the Illinois Public Aid Code who
16 resides in a licensed long-term care facility, as defined in
17 the Nursing Home Care Act.

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

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

8 (38) Beginning on January 1, 2002 and through June 30,
9 2011, tangible personal property purchased from an Illinois
10 retailer by a taxpayer engaged in centralized purchasing
11 activities in Illinois who will, upon receipt of the property
12 in Illinois, temporarily store the property in Illinois (i) for
13 the purpose of subsequently transporting it outside this State
14 for use or consumption thereafter solely outside this State or
15 (ii) for the purpose of being processed, fabricated, or
16 manufactured into, attached to, or incorporated into other
17 tangible personal property to be transported outside this State
18 and thereafter used or consumed solely outside this State. The
19 Director of Revenue shall, pursuant to rules adopted in
20 accordance with the Illinois Administrative Procedure Act,
21 issue a permit to any taxpayer in good standing with the
22 Department who is eligible for the exemption under this
23 paragraph (38). The permit issued under this paragraph (38)
24 shall authorize the holder, to the extent and in the manner
25 specified in the rules adopted under this Act, to purchase
26 tangible personal property from a retailer exempt from the

1 taxes imposed by this Act. Taxpayers shall maintain all
2 necessary books and records to substantiate the use and
3 consumption of all such tangible personal property outside of
4 the State of Illinois.

5 (39) Beginning on and after the effective date of this
6 amendatory Act of the 95th General Assembly, personal property
7 purchased from a blind vendor's vending facility licensed by
8 the Department of Human Services under the Blind Vendors Act.
9 This paragraph is exempt from the provisions of Section 2-70.

10 (Source: P.A. 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840,
11 eff. 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05;
12 94-1002, eff. 7-3-06.)