

1 AN ACT concerning revenue.

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

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

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

7 (Text of Section before amendment by P.A. 98-628)

8 Sec. 2. Definitions.

9 "Use" means the exercise by any person of any right or power  
10 over tangible personal property incident to the ownership of  
11 that property, except that it does not include the sale of such  
12 property in any form as tangible personal property in the  
13 regular course of business to the extent that such property is  
14 not first subjected to a use for which it was purchased, and  
15 does not include the use of such property by its owner for  
16 demonstration purposes: Provided that the property purchased  
17 is deemed to be purchased for the purpose of resale, despite  
18 first being used, to the extent to which it is resold as an  
19 ingredient of an intentionally produced product or by-product  
20 of manufacturing. "Use" does not mean the demonstration use or  
21 interim use of tangible personal property by a retailer before  
22 he sells that tangible personal property. For watercraft or  
23 aircraft, if the period of demonstration use or interim use by

1 the retailer exceeds 18 months, the retailer shall pay on the  
2 retailers' original cost price the tax imposed by this Act, and  
3 no credit for that tax is permitted if the watercraft or  
4 aircraft is subsequently sold by the retailer. "Use" does not  
5 mean the physical incorporation of tangible personal property,  
6 to the extent not first subjected to a use for which it was  
7 purchased, as an ingredient or constituent, into other tangible  
8 personal property (a) which is sold in the regular course of  
9 business or (b) which the person incorporating such ingredient  
10 or constituent therein has undertaken at the time of such  
11 purchase to cause to be transported in interstate commerce to  
12 destinations outside the State of Illinois: Provided that the  
13 property purchased is deemed to be purchased for the purpose of  
14 resale, despite first being used, to the extent to which it is  
15 resold as an ingredient of an intentionally produced product or  
16 by-product of manufacturing.

17 "Watercraft" means a Class 2, Class 3, or Class 4  
18 watercraft as defined in Section 3-2 of the Boat Registration  
19 and Safety Act, a personal watercraft, or any boat equipped  
20 with an inboard motor.

21 "Purchase at retail" means the acquisition of the ownership  
22 of or title to tangible personal property through a sale at  
23 retail.

24 "Purchaser" means anyone who, through a sale at retail,  
25 acquires the ownership of tangible personal property for a  
26 valuable consideration.

1 "Sale at retail" means any transfer of the ownership of or  
2 title to tangible personal property to a purchaser, for the  
3 purpose of use, and not for the purpose of resale in any form  
4 as tangible personal property to the extent not first subjected  
5 to a use for which it was purchased, for a valuable  
6 consideration: Provided that the property purchased is deemed  
7 to be purchased for the purpose of resale, despite first being  
8 used, to the extent to which it is resold as an ingredient of  
9 an intentionally produced product or by-product of  
10 manufacturing. For this purpose, slag produced as an incident  
11 to manufacturing pig iron or steel and sold is considered to be  
12 an intentionally produced by-product of manufacturing. "Sale  
13 at retail" includes any such transfer made for resale unless  
14 made in compliance with Section 2c of the Retailers' Occupation  
15 Tax Act, as incorporated by reference into Section 12 of this  
16 Act. Transactions whereby the possession of the property is  
17 transferred but the seller retains the title as security for  
18 payment of the selling price are sales.

19 "Sale at retail" shall also be construed to include any  
20 Illinois florist's sales transaction in which the purchase  
21 order is received in Illinois by a florist and the sale is for  
22 use or consumption, but the Illinois florist has a florist in  
23 another state deliver the property to the purchaser or the  
24 purchaser's donee in such other state.

25 Nonreusable tangible personal property that is used by  
26 persons engaged in the business of operating a restaurant,

1 cafeteria, or drive-in is a sale for resale when it is  
2 transferred to customers in the ordinary course of business as  
3 part of the sale of food or beverages and is used to deliver,  
4 package, or consume food or beverages, regardless of where  
5 consumption of the food or beverages occurs. Examples of those  
6 items include, but are not limited to nonreusable, paper and  
7 plastic cups, plates, baskets, boxes, sleeves, buckets or other  
8 containers, utensils, straws, placemats, napkins, doggie bags,  
9 and wrapping or packaging materials that are transferred to  
10 customers as part of the sale of food or beverages in the  
11 ordinary course of business.

12 The purchase, employment and transfer of such tangible  
13 personal property as newsprint and ink for the primary purpose  
14 of conveying news (with or without other information) is not a  
15 purchase, use or sale of tangible personal property.

16 "Selling price" means the consideration for a sale valued  
17 in money whether received in money or otherwise, including  
18 cash, credits, property other than as hereinafter provided, and  
19 services, but not including the value of or credit given for  
20 traded-in tangible personal property where the item that is  
21 traded-in is of like kind and character as that which is being  
22 sold, and shall be determined without any deduction on account  
23 of the cost of the property sold, the cost of materials used,  
24 labor or service cost or any other expense whatsoever, but does  
25 not include interest or finance charges which appear as  
26 separate items on the bill of sale or sales contract nor

1 charges that are added to prices by sellers on account of the  
2 seller's tax liability under the "Retailers' Occupation Tax  
3 Act", or on account of the seller's duty to collect, from the  
4 purchaser, the tax that is imposed by this Act, or, except as  
5 otherwise provided with respect to any cigarette tax imposed by  
6 a home rule unit, on account of the seller's tax liability  
7 under any local occupation tax administered by the Department,  
8 or, except as otherwise provided with respect to any cigarette  
9 tax imposed by a home rule unit on account of the seller's duty  
10 to collect, from the purchasers, the tax that is imposed under  
11 any local use tax administered by the Department. Effective  
12 December 1, 1985, "selling price" shall include charges that  
13 are added to prices by sellers on account of the seller's tax  
14 liability under the Cigarette Tax Act, on account of the  
15 seller's duty to collect, from the purchaser, the tax imposed  
16 under the Cigarette Use Tax Act, and on account of the seller's  
17 duty to collect, from the purchaser, any cigarette tax imposed  
18 by a home rule unit.

19 The phrase "like kind and character" shall be liberally  
20 construed (including but not limited to any form of motor  
21 vehicle for any form of motor vehicle, or any kind of farm or  
22 agricultural implement for any other kind of farm or  
23 agricultural implement), while not including a kind of item  
24 which, if sold at retail by that retailer, would be exempt from  
25 retailers' occupation tax and use tax as an isolated or  
26 occasional sale.

1 "Department" means the Department of Revenue.

2 "Person" means any natural individual, firm, partnership,  
3 association, joint stock company, joint adventure, public or  
4 private corporation, limited liability company, or a receiver,  
5 executor, trustee, guardian or other representative appointed  
6 by order of any court.

7 "Retailer" means and includes every person engaged in the  
8 business of making sales at retail as defined in this Section.

9 A person who holds himself or herself out as being engaged  
10 (or who habitually engages) in selling tangible personal  
11 property at retail is a retailer hereunder with respect to such  
12 sales (and not primarily in a service occupation)  
13 notwithstanding the fact that such person designs and produces  
14 such tangible personal property on special order for the  
15 purchaser and in such a way as to render the property of value  
16 only to such purchaser, if such tangible personal property so  
17 produced on special order serves substantially the same  
18 function as stock or standard items of tangible personal  
19 property that are sold at retail.

20 A person whose activities are organized and conducted  
21 primarily as a not-for-profit service enterprise, and who  
22 engages in selling tangible personal property at retail  
23 (whether to the public or merely to members and their guests)  
24 is a retailer with respect to such transactions, excepting only  
25 a person organized and operated exclusively for charitable,  
26 religious or educational purposes either (1), to the extent of

1 sales by such person to its members, students, patients or  
2 inmates of tangible personal property to be used primarily for  
3 the purposes of such person, or (2), to the extent of sales by  
4 such person of tangible personal property which is not sold or  
5 offered for sale by persons organized for profit. The selling  
6 of school books and school supplies by schools at retail to  
7 students is not "primarily for the purposes of" the school  
8 which does such selling. This paragraph does not apply to nor  
9 subject to taxation occasional dinners, social or similar  
10 activities of a person organized and operated exclusively for  
11 charitable, religious or educational purposes, whether or not  
12 such activities are open to the public.

13 A person who is the recipient of a grant or contract under  
14 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and  
15 serves meals to participants in the federal Nutrition Program  
16 for the Elderly in return for contributions established in  
17 amount by the individual participant pursuant to a schedule of  
18 suggested fees as provided for in the federal Act is not a  
19 retailer under this Act with respect to such transactions.

20 Persons who engage in the business of transferring tangible  
21 personal property upon the redemption of trading stamps are  
22 retailers hereunder when engaged in such business.

23 The isolated or occasional sale of tangible personal  
24 property at retail by a person who does not hold himself out as  
25 being engaged (or who does not habitually engage) in selling  
26 such tangible personal property at retail or a sale through a

1 bulk vending machine does not make such person a retailer  
2 hereunder. However, any person who is engaged in a business  
3 which is not subject to the tax imposed by the "Retailers'  
4 Occupation Tax Act" because of involving the sale of or a  
5 contract to sell real estate or a construction contract to  
6 improve real estate, but who, in the course of conducting such  
7 business, transfers tangible personal property to users or  
8 consumers in the finished form in which it was purchased, and  
9 which does not become real estate, under any provision of a  
10 construction contract or real estate sale or real estate sales  
11 agreement entered into with some other person arising out of or  
12 because of such nontaxable business, is a retailer to the  
13 extent of the value of the tangible personal property so  
14 transferred. If, in such transaction, a separate charge is made  
15 for the tangible personal property so transferred, the value of  
16 such property, for the purposes of this Act, is the amount so  
17 separately charged, but not less than the cost of such property  
18 to the transferor; if no separate charge is made, the value of  
19 such property, for the purposes of this Act, is the cost to the  
20 transferor of such tangible personal property.

21 "Retailer maintaining a place of business in this State",  
22 or any like term, means and includes any of the following  
23 retailers:

- 24 1. A retailer having or maintaining within this State,  
25 directly or by a subsidiary, an office, distribution house,  
26 sales house, warehouse or other place of business, or any



1 agent or other representative operating within this State  
2 under the authority of the retailer or its subsidiary,  
3 irrespective of whether such place of business or agent or  
4 other representative is located here permanently or  
5 temporarily, or whether such retailer or subsidiary is  
6 licensed to do business in this State. However, the  
7 ownership of property that is located at the premises of a  
8 printer with which the retailer has contracted for printing  
9 and that consists of the final printed product, property  
10 that becomes a part of the final printed product, or copy  
11 from which the printed product is produced shall not result  
12 in the retailer being deemed to have or maintain an office,  
13 distribution house, sales house, warehouse, or other place  
14 of business within this State.

15 1.1. ~~A Beginning July 1, 2011,~~ a retailer having a  
16 contract with a person located in this State under which  
17 the person, for a commission or other consideration based  
18 upon the sale of tangible personal property by the  
19 retailer, directly or indirectly refers potential  
20 customers to the retailer by providing to the potential  
21 customers a promotional code or other mechanism that allows  
22 the retailer to track purchases referred by such persons.  
23 Examples of mechanisms that allow the retailer to track  
24 purchases referred by such persons include but are not  
25 limited to the use of a link on the person's Internet  
26 website, promotional codes distributed through the

1 person's hand-delivered or mailed material, and  
2 promotional codes distributed by the person through radio  
3 or other broadcast media. The provisions of this paragraph  
4 1.1 shall apply only if the cumulative gross receipts from  
5 sales of tangible personal property by the retailer to  
6 customers who are referred to the retailer by all persons  
7 in this State under such contracts exceed \$10,000 during  
8 the preceding 4 quarterly periods ending on the last day of  
9 March, June, September, and December. A retailer meeting  
10 the requirements of this paragraph 1.1 shall be presumed to  
11 be maintaining a place of business in this State but may  
12 rebut this presumption by submitting proof that the  
13 referrals or other activities pursued within this State by  
14 such persons were not sufficient to meet the nexus  
15 standards of the United States Constitution during the  
16 preceding 4 quarterly periods.

17 1.2. Beginning July 1, 2011, a retailer having a  
18 contract with a person located in this State under which:

19 A. the retailer sells the same or substantially  
20 similar line of products as the person located in this  
21 State and does so using an identical or substantially  
22 similar name, trade name, or trademark as the person  
23 located in this State; and

24 B. the retailer provides a commission or other  
25 consideration to the person located in this State based  
26 upon the sale of tangible personal property by the

1           retailer.

2           The provisions of this paragraph 1.2 shall apply only if  
3           the cumulative gross receipts from sales of tangible  
4           personal property by the retailer to customers in this  
5           State under all such contracts exceed \$10,000 during the  
6           preceding 4 quarterly periods ending on the last day of  
7           March, June, September, and December.

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

14          3. A retailer, pursuant to a contract with a  
15          broadcaster or publisher located in this State, soliciting  
16          orders for tangible personal property by means of  
17          advertising which is disseminated primarily to consumers  
18          located in this State and only secondarily to bordering  
19          jurisdictions.

20          4. A retailer soliciting orders for tangible personal  
21          property by mail if the solicitations are substantial and  
22          recurring and if the retailer benefits from any banking,  
23          financing, debt collection, telecommunication, or  
24          marketing activities occurring in this State or benefits  
25          from the location in this State of authorized installation,  
26          servicing, or repair facilities.

1           5. A retailer that is owned or controlled by the same  
2 interests that own or control any retailer engaging in  
3 business in the same or similar line of business in this  
4 State.

5           6. A retailer having a franchisee or licensee operating  
6 under its trade name if the franchisee or licensee is  
7 required to collect the tax under this Section.

8           7. A retailer, pursuant to a contract with a cable  
9 television operator located in this State, soliciting  
10 orders for tangible personal property by means of  
11 advertising which is transmitted or distributed over a  
12 cable television system in this State.

13           8. A retailer engaging in activities in Illinois, which  
14 activities in the state in which the retail business  
15 engaging in such activities is located would constitute  
16 maintaining a place of business in that state.

17           "Bulk vending machine" means a vending machine, containing  
18 unsorted confections, nuts, toys, or other items designed  
19 primarily to be used or played with by children which, when a  
20 coin or coins of a denomination not larger than \$0.50 are  
21 inserted, are dispensed in equal portions, at random and  
22 without selection by the customer.

23           (Source: P.A. 95-723, eff. 6-23-08; 96-1544, eff. 3-10-11.)

24           (Text of Section after amendment by P.A. 98-628)

25           Sec. 2. Definitions.

1 "Use" means the exercise by any person of any right or power  
2 over tangible personal property incident to the ownership of  
3 that property, except that it does not include the sale of such  
4 property in any form as tangible personal property in the  
5 regular course of business to the extent that such property is  
6 not first subjected to a use for which it was purchased, and  
7 does not include the use of such property by its owner for  
8 demonstration purposes: Provided that the property purchased  
9 is deemed to be purchased for the purpose of resale, despite  
10 first being used, to the extent to which it is resold as an  
11 ingredient of an intentionally produced product or by-product  
12 of manufacturing. "Use" does not mean the demonstration use or  
13 interim use of tangible personal property by a retailer before  
14 he sells that tangible personal property. For watercraft or  
15 aircraft, if the period of demonstration use or interim use by  
16 the retailer exceeds 18 months, the retailer shall pay on the  
17 retailers' original cost price the tax imposed by this Act, and  
18 no credit for that tax is permitted if the watercraft or  
19 aircraft is subsequently sold by the retailer. "Use" does not  
20 mean the physical incorporation of tangible personal property,  
21 to the extent not first subjected to a use for which it was  
22 purchased, as an ingredient or constituent, into other tangible  
23 personal property (a) which is sold in the regular course of  
24 business or (b) which the person incorporating such ingredient  
25 or constituent therein has undertaken at the time of such  
26 purchase to cause to be transported in interstate commerce to

1 destinations outside the State of Illinois: Provided that the  
2 property purchased is deemed to be purchased for the purpose of  
3 resale, despite first being used, to the extent to which it is  
4 resold as an ingredient of an intentionally produced product or  
5 by-product of manufacturing.

6 "Watercraft" means a Class 2, Class 3, or Class 4  
7 watercraft as defined in Section 3-2 of the Boat Registration  
8 and Safety Act, a personal watercraft, or any boat equipped  
9 with an inboard motor.

10 "Purchase at retail" means the acquisition of the ownership  
11 of or title to tangible personal property through a sale at  
12 retail.

13 "Purchaser" means anyone who, through a sale at retail,  
14 acquires the ownership of tangible personal property for a  
15 valuable consideration.

16 "Sale at retail" means any transfer of the ownership of or  
17 title to tangible personal property to a purchaser, for the  
18 purpose of use, and not for the purpose of resale in any form  
19 as tangible personal property to the extent not first subjected  
20 to a use for which it was purchased, for a valuable  
21 consideration: Provided that the property purchased is deemed  
22 to be purchased for the purpose of resale, despite first being  
23 used, to the extent to which it is resold as an ingredient of  
24 an intentionally produced product or by-product of  
25 manufacturing. For this purpose, slag produced as an incident  
26 to manufacturing pig iron or steel and sold is considered to be

1 an intentionally produced by-product of manufacturing. "Sale  
2 at retail" includes any such transfer made for resale unless  
3 made in compliance with Section 2c of the Retailers' Occupation  
4 Tax Act, as incorporated by reference into Section 12 of this  
5 Act. Transactions whereby the possession of the property is  
6 transferred but the seller retains the title as security for  
7 payment of the selling price are sales.

8 "Sale at retail" shall also be construed to include any  
9 Illinois florist's sales transaction in which the purchase  
10 order is received in Illinois by a florist and the sale is for  
11 use or consumption, but the Illinois florist has a florist in  
12 another state deliver the property to the purchaser or the  
13 purchaser's donee in such other state.

14 Nonreusable tangible personal property that is used by  
15 persons engaged in the business of operating a restaurant,  
16 cafeteria, or drive-in is a sale for resale when it is  
17 transferred to customers in the ordinary course of business as  
18 part of the sale of food or beverages and is used to deliver,  
19 package, or consume food or beverages, regardless of where  
20 consumption of the food or beverages occurs. Examples of those  
21 items include, but are not limited to nonreusable, paper and  
22 plastic cups, plates, baskets, boxes, sleeves, buckets or other  
23 containers, utensils, straws, placemats, napkins, doggie bags,  
24 and wrapping or packaging materials that are transferred to  
25 customers as part of the sale of food or beverages in the  
26 ordinary course of business.

1           The purchase, employment and transfer of such tangible  
2 personal property as newsprint and ink for the primary purpose  
3 of conveying news (with or without other information) is not a  
4 purchase, use or sale of tangible personal property.

5           "Selling price" means the consideration for a sale valued  
6 in money whether received in money or otherwise, including  
7 cash, credits, property other than as hereinafter provided, and  
8 services, but not including the value of or credit given for  
9 traded-in tangible personal property where the item that is  
10 traded-in is of like kind and character as that which is being  
11 sold, and shall be determined without any deduction on account  
12 of the cost of the property sold, the cost of materials used,  
13 labor or service cost or any other expense whatsoever, but does  
14 not include interest or finance charges which appear as  
15 separate items on the bill of sale or sales contract nor  
16 charges that are added to prices by sellers on account of the  
17 seller's tax liability under the "Retailers' Occupation Tax  
18 Act", or on account of the seller's duty to collect, from the  
19 purchaser, the tax that is imposed by this Act, or, except as  
20 otherwise provided with respect to any cigarette tax imposed by  
21 a home rule unit, on account of the seller's tax liability  
22 under any local occupation tax administered by the Department,  
23 or, except as otherwise provided with respect to any cigarette  
24 tax imposed by a home rule unit on account of the seller's duty  
25 to collect, from the purchasers, the tax that is imposed under  
26 any local use tax administered by the Department. Effective



1 December 1, 1985, "selling price" shall include charges that  
2 are added to prices by sellers on account of the seller's tax  
3 liability under the Cigarette Tax Act, on account of the  
4 seller's duty to collect, from the purchaser, the tax imposed  
5 under the Cigarette Use Tax Act, and on account of the seller's  
6 duty to collect, from the purchaser, any cigarette tax imposed  
7 by a home rule unit.

8 Notwithstanding any law to the contrary, for any motor  
9 vehicle, as defined in Section 1-146 of the Vehicle Code, that  
10 is sold on or after July 1, 2014 for the purpose of leasing the  
11 vehicle for a defined period that is longer than one year and  
12 (1) is a motor vehicle of the second division that: (A) is a  
13 self-contained motor vehicle designed or permanently converted  
14 to provide living quarters for recreational, camping, or travel  
15 use, with direct walk through access to the living quarters  
16 from the driver's seat; (B) is of the van configuration  
17 designed for the transportation of not less than 7 nor more  
18 than 16 passengers; or (C) has a gross vehicle weight rating of  
19 8,000 pounds or less or (2) is a motor vehicle of the first  
20 division, "selling price" or "amount of sale" means the  
21 consideration received by the lessor pursuant to the lease  
22 contract, including amounts due at lease signing and all  
23 monthly or other regular payments charged over the term of the  
24 lease. Also included in the selling price is any amount  
25 received by the lessor from the lessee for the leased vehicle  
26 that is not calculated at the time the lease is executed,

1 including, but not limited to, excess mileage charges and  
2 charges for excess wear and tear. For sales that occur in  
3 Illinois, with respect to any amount received by the lessor  
4 from the lessee for the leased vehicle that is not calculated  
5 at the time the lease is executed, the lessor who purchased the  
6 motor vehicle does not incur the tax imposed by the Use Tax Act  
7 on those amounts, and the retailer who makes the retail sale of  
8 the motor vehicle to the lessor is not required to collect the  
9 tax imposed by this Act or to pay the tax imposed by the  
10 Retailers' Occupation Tax Act on those amounts. However, the  
11 lessor who purchased the motor vehicle assumes the liability  
12 for reporting and paying the tax on those amounts directly to  
13 the Department in the same form (Illinois Retailers' Occupation  
14 Tax, and local retailers' occupation taxes, if applicable) in  
15 which the retailer would have reported and paid such tax if the  
16 retailer had accounted for the tax to the Department. For  
17 amounts received by the lessor from the lessee that are not  
18 calculated at the time the lease is executed, the lessor must  
19 file the return and pay the tax to the Department by the due  
20 date otherwise required by this Act for returns other than  
21 transaction returns. If the retailer is entitled under this Act  
22 to a discount for collecting and remitting the tax imposed  
23 under this Act to the Department with respect to the sale of  
24 the motor vehicle to the lessor, then the right to the discount  
25 provided in this Act shall be transferred to the lessor with  
26 respect to the tax paid by the lessor for any amount received

1 by the lessor from the lessee for the leased vehicle that is  
2 not calculated at the time the lease is executed; provided that  
3 the discount is only allowed if the return is timely filed and  
4 for amounts timely paid. The "selling price" of a motor vehicle  
5 that is sold on or after July 1, 2014 for the purpose of  
6 leasing for a defined period of longer than one year shall not  
7 be reduced by the value of or credit given for traded-in  
8 tangible personal property owned by the lessor, nor shall it be  
9 reduced by the value of or credit given for traded-in tangible  
10 personal property owned by the lessee, regardless of whether  
11 the trade-in value thereof is assigned by the lessee to the  
12 lessor. In the case of a motor vehicle that is sold for the  
13 purpose of leasing for a defined period of longer than one  
14 year, the sale occurs at the time of the delivery of the  
15 vehicle, regardless of the due date of any lease payments. A  
16 lessor who incurs a Retailers' Occupation Tax liability on the  
17 sale of a motor vehicle coming off lease may not take a credit  
18 against that liability for the Use Tax the lessor paid upon the  
19 purchase of the motor vehicle (or for any tax the lessor paid  
20 with respect to any amount received by the lessor from the  
21 lessee for the leased vehicle that was not calculated at the  
22 time the lease was executed) if the selling price of the motor  
23 vehicle at the time of purchase was calculated using the  
24 definition of "selling price" as defined in this paragraph.  
25 Notwithstanding any other provision of this Act to the  
26 contrary, lessors shall file all returns and make all payments

1 required under this paragraph to the Department by electronic  
2 means in the manner and form as required by the Department.  
3 This paragraph does not apply to leases of motor vehicles for  
4 which, at the time the lease is entered into, the term of the  
5 lease is not a defined period, including leases with a defined  
6 initial period with the option to continue the lease on a  
7 month-to-month or other basis beyond the initial defined  
8 period.

9 The phrase "like kind and character" shall be liberally  
10 construed (including but not limited to any form of motor  
11 vehicle for any form of motor vehicle, or any kind of farm or  
12 agricultural implement for any other kind of farm or  
13 agricultural implement), while not including a kind of item  
14 which, if sold at retail by that retailer, would be exempt from  
15 retailers' occupation tax and use tax as an isolated or  
16 occasional sale.

17 "Department" means the Department of Revenue.

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

23 "Retailer" means and includes every person engaged in the  
24 business of making sales at retail as defined in this Section.

25 A person who holds himself or herself out as being engaged  
26 (or who habitually engages) in selling tangible personal

1 property at retail is a retailer hereunder with respect to such  
2 sales (and not primarily in a service occupation)  
3 notwithstanding the fact that such person designs and produces  
4 such tangible personal property on special order for the  
5 purchaser and in such a way as to render the property of value  
6 only to such purchaser, if such tangible personal property so  
7 produced on special order serves substantially the same  
8 function as stock or standard items of tangible personal  
9 property that are sold at retail.

10 A person whose activities are organized and conducted  
11 primarily as a not-for-profit service enterprise, and who  
12 engages in selling tangible personal property at retail  
13 (whether to the public or merely to members and their guests)  
14 is a retailer with respect to such transactions, excepting only  
15 a person organized and operated exclusively for charitable,  
16 religious or educational purposes either (1), to the extent of  
17 sales by such person to its members, students, patients or  
18 inmates of tangible personal property to be used primarily for  
19 the purposes of such person, or (2), to the extent of sales by  
20 such person of tangible personal property which is not sold or  
21 offered for sale by persons organized for profit. The selling  
22 of school books and school supplies by schools at retail to  
23 students is not "primarily for the purposes of" the school  
24 which does such selling. This paragraph does not apply to nor  
25 subject to taxation occasional dinners, social or similar  
26 activities of a person organized and operated exclusively for

1 charitable, religious or educational purposes, whether or not  
2 such activities are open to the public.

3 A person who is the recipient of a grant or contract under  
4 Title VII of the Older Americans Act of 1965 (P.L. 92-258) and  
5 serves meals to participants in the federal Nutrition Program  
6 for the Elderly in return for contributions established in  
7 amount by the individual participant pursuant to a schedule of  
8 suggested fees as provided for in the federal Act is not a  
9 retailer under this Act with respect to such transactions.

10 Persons who engage in the business of transferring tangible  
11 personal property upon the redemption of trading stamps are  
12 retailers hereunder when engaged in such business.

13 The isolated or occasional sale of tangible personal  
14 property at retail by a person who does not hold himself out as  
15 being engaged (or who does not habitually engage) in selling  
16 such tangible personal property at retail or a sale through a  
17 bulk vending machine does not make such person a retailer  
18 hereunder. However, any person who is engaged in a business  
19 which is not subject to the tax imposed by the "Retailers'  
20 Occupation Tax Act" because of involving the sale of or a  
21 contract to sell real estate or a construction contract to  
22 improve real estate, but who, in the course of conducting such  
23 business, transfers tangible personal property to users or  
24 consumers in the finished form in which it was purchased, and  
25 which does not become real estate, under any provision of a  
26 construction contract or real estate sale or real estate sales

1 agreement entered into with some other person arising out of or  
2 because of such nontaxable business, is a retailer to the  
3 extent of the value of the tangible personal property so  
4 transferred. If, in such transaction, a separate charge is made  
5 for the tangible personal property so transferred, the value of  
6 such property, for the purposes of this Act, is the amount so  
7 separately charged, but not less than the cost of such property  
8 to the transferor; if no separate charge is made, the value of  
9 such property, for the purposes of this Act, is the cost to the  
10 transferor of such tangible personal property.

11 "Retailer maintaining a place of business in this State",  
12 or any like term, means and includes any of the following  
13 retailers:

14 1. A retailer having or maintaining within this State,  
15 directly or by a subsidiary, an office, distribution house,  
16 sales house, warehouse or other place of business, or any  
17 agent or other representative operating within this State  
18 under the authority of the retailer or its subsidiary,  
19 irrespective of whether such place of business or agent or  
20 other representative is located here permanently or  
21 temporarily, or whether such retailer or subsidiary is  
22 licensed to do business in this State. However, the  
23 ownership of property that is located at the premises of a  
24 printer with which the retailer has contracted for printing  
25 and that consists of the final printed product, property  
26 that becomes a part of the final printed product, or copy

1 from which the printed product is produced shall not result  
2 in the retailer being deemed to have or maintain an office,  
3 distribution house, sales house, warehouse, or other place  
4 of business within this State.

5 1.1. ~~A Beginning July 1, 2011, a~~ retailer having a  
6 contract with a person located in this State under which  
7 the person, for a commission or other consideration based  
8 upon the sale of tangible personal property by the  
9 retailer, directly or indirectly refers potential  
10 customers to the retailer by providing to the potential  
11 customers a promotional code or other mechanism that allows  
12 the retailer to track purchases referred by such persons.  
13 Examples of mechanisms that allow the retailer to track  
14 purchases referred by such persons include but are not  
15 limited to the use of a link on the person's Internet  
16 website, promotional codes distributed through the  
17 person's hand-delivered or mailed material, and  
18 promotional codes distributed by the person through radio  
19 or other broadcast media. The provisions of this paragraph  
20 1.1 shall apply only if the cumulative gross receipts from  
21 sales of tangible personal property by the retailer to  
22 customers who are referred to the retailer by all persons  
23 in this State under such contracts exceed \$10,000 during  
24 the preceding 4 quarterly periods ending on the last day of  
25 March, June, September, and December. A retailer meeting  
26 the requirements of this paragraph 1.1 shall be presumed to



1 be maintaining a place of business in this State but may  
2 rebut this presumption by submitting proof that the  
3 referrals or other activities pursued within this State by  
4 such persons were not sufficient to meet the nexus  
5 standards of the United States Constitution during the  
6 preceding 4 quarterly periods.

7 1.2. Beginning July 1, 2011, a retailer having a  
8 contract with a person located in this State under which:

9 A. the retailer sells the same or substantially  
10 similar line of products as the person located in this  
11 State and does so using an identical or substantially  
12 similar name, trade name, or trademark as the person  
13 located in this State; and

14 B. the retailer provides a commission or other  
15 consideration to the person located in this State based  
16 upon the sale of tangible personal property by the  
17 retailer.

18 The provisions of this paragraph 1.2 shall apply only if  
19 the cumulative gross receipts from sales of tangible  
20 personal property by the retailer to customers in this  
21 State under all such contracts exceed \$10,000 during the  
22 preceding 4 quarterly periods ending on the last day of  
23 March, June, September, and December.

24 2. A retailer soliciting orders for tangible personal  
25 property by means of a telecommunication or television  
26 shopping system (which utilizes toll free numbers) which is

1 intended by the retailer to be broadcast by cable  
2 television or other means of broadcasting, to consumers  
3 located in this State.

4 3. A retailer, pursuant to a contract with a  
5 broadcaster or publisher located in this State, soliciting  
6 orders for tangible personal property by means of  
7 advertising which is disseminated primarily to consumers  
8 located in this State and only secondarily to bordering  
9 jurisdictions.

10 4. A retailer soliciting orders for tangible personal  
11 property by mail if the solicitations are substantial and  
12 recurring and if the retailer benefits from any banking,  
13 financing, debt collection, telecommunication, or  
14 marketing activities occurring in this State or benefits  
15 from the location in this State of authorized installation,  
16 servicing, or repair facilities.

17 5. A retailer that is owned or controlled by the same  
18 interests that own or control any retailer engaging in  
19 business in the same or similar line of business in this  
20 State.

21 6. A retailer having a franchisee or licensee operating  
22 under its trade name if the franchisee or licensee is  
23 required to collect the tax under this Section.

24 7. A retailer, pursuant to a contract with a cable  
25 television operator located in this State, soliciting  
26 orders for tangible personal property by means of

1 advertising which is transmitted or distributed over a  
2 cable television system in this State.

3 8. A retailer engaging in activities in Illinois, which  
4 activities in the state in which the retail business  
5 engaging in such activities is located would constitute  
6 maintaining a place of business in that state.

7 "Bulk vending machine" means a vending machine, containing  
8 unsorted confections, nuts, toys, or other items designed  
9 primarily to be used or played with by children which, when a  
10 coin or coins of a denomination not larger than \$0.50 are  
11 inserted, are dispensed in equal portions, at random and  
12 without selection by the customer.

13 (Source: P.A. 98-628, eff. 1-1-15.)

14 Section 10. The Service Use Tax Act is amended by changing  
15 Section 2 as follows:

16 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

17 Sec. 2. Definitions.

18 "Use" means the exercise by any person of any right or  
19 power over tangible personal property incident to the ownership  
20 of that property, but does not include the sale or use for  
21 demonstration by him of that property in any form as tangible  
22 personal property in the regular course of business. "Use" does  
23 not mean the interim use of tangible personal property nor the  
24 physical incorporation of tangible personal property, as an

1 ingredient or constituent, into other tangible personal  
2 property, (a) which is sold in the regular course of business  
3 or (b) which the person incorporating such ingredient or  
4 constituent therein has undertaken at the time of such purchase  
5 to cause to be transported in interstate commerce to  
6 destinations outside the State of Illinois.

7 "Purchased from a serviceman" means the acquisition of the  
8 ownership of, or title to, tangible personal property through a  
9 sale of service.

10 "Purchaser" means any person who, through a sale of  
11 service, acquires the ownership of, or title to, any tangible  
12 personal property.

13 "Cost price" means the consideration paid by the serviceman  
14 for a purchase valued in money, whether paid in money or  
15 otherwise, including cash, credits and services, and shall be  
16 determined without any deduction on account of the supplier's  
17 cost of the property sold or on account of any other expense  
18 incurred by the supplier. When a serviceman contracts out part  
19 or all of the services required in his sale of service, it  
20 shall be presumed that the cost price to the serviceman of the  
21 property transferred to him or her by his or her subcontractor  
22 is equal to 50% of the subcontractor's charges to the  
23 serviceman in the absence of proof of the consideration paid by  
24 the subcontractor for the purchase of such property.

25 "Selling price" means the consideration for a sale valued  
26 in money whether received in money or otherwise, including

1 cash, credits and service, and shall be determined without any  
2 deduction on account of the serviceman's cost of the property  
3 sold, the cost of materials used, labor or service cost or any  
4 other expense whatsoever, but does not include interest or  
5 finance charges which appear as separate items on the bill of  
6 sale or sales contract nor charges that are added to prices by  
7 sellers on account of the seller's duty to collect, from the  
8 purchaser, the tax that is imposed by this Act.

9 "Department" means the Department of Revenue.

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

15 "Sale of service" means any transaction except:

16 (1) a retail sale of tangible personal property taxable  
17 under the Retailers' Occupation Tax Act or under the Use  
18 Tax Act.

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

22 (3) except as hereinafter provided, a sale or transfer  
23 of tangible personal property as an incident to the  
24 rendering of service for or by any governmental body, or  
25 for or by any corporation, society, association,  
26 foundation or institution organized and operated

1 exclusively for charitable, religious or educational  
2 purposes or any not-for-profit corporation, society,  
3 association, foundation, institution or organization which  
4 has no compensated officers or employees and which is  
5 organized and operated primarily for the recreation of  
6 persons 55 years of age or older. A limited liability  
7 company may qualify for the exemption under this paragraph  
8 only if the limited liability company is organized and  
9 operated exclusively for educational purposes.

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

22 (4a) a sale or transfer of tangible personal property  
23 as an incident to the rendering of service for owners,  
24 lessors, or shippers of tangible personal property which is  
25 utilized by interstate carriers for hire for use as rolling  
26 stock moving in interstate commerce so long as so used by

1 interstate carriers for hire, and equipment operated by a  
2 telecommunications provider, licensed as a common carrier  
3 by the Federal Communications Commission, which is  
4 permanently installed in or affixed to aircraft moving in  
5 interstate commerce.

6 (4a-5) on and after July 1, 2003 and through June 30,  
7 2004, a sale or transfer of a motor vehicle of the second  
8 division with a gross vehicle weight in excess of 8,000  
9 pounds as an incident to the rendering of service if that  
10 motor vehicle is subject to the commercial distribution fee  
11 imposed under Section 3-815.1 of the Illinois Vehicle Code.  
12 Beginning on July 1, 2004 and through June 30, 2005, the  
13 use in this State of motor vehicles of the second division:  
14 (i) with a gross vehicle weight rating in excess of 8,000  
15 pounds; (ii) that are subject to the commercial  
16 distribution fee imposed under Section 3-815.1 of the  
17 Illinois Vehicle Code; and (iii) that are primarily used  
18 for commercial purposes. Through June 30, 2005, this  
19 exemption applies to repair and replacement parts added  
20 after the initial purchase of such a motor vehicle if that  
21 motor vehicle is used in a manner that would qualify for  
22 the rolling stock exemption otherwise provided for in this  
23 Act. For purposes of this paragraph, "used for commercial  
24 purposes" means the transportation of persons or property  
25 in furtherance of any commercial or industrial enterprise  
26 whether for-hire or not.

1           (5) a sale or transfer of machinery and equipment used  
2           primarily in the process of the manufacturing or  
3           assembling, either in an existing, an expanded or a new  
4           manufacturing facility, of tangible personal property for  
5           wholesale or retail sale or lease, whether such sale or  
6           lease is made directly by the manufacturer or by some other  
7           person, whether the materials used in the process are owned  
8           by the manufacturer or some other person, or whether such  
9           sale or lease is made apart from or as an incident to the  
10          seller's engaging in a service occupation and the  
11          applicable tax is a Service Use Tax or Service Occupation  
12          Tax, rather than Use Tax or Retailers' Occupation Tax. The  
13          exemption provided by this paragraph (5) does not include  
14          machinery and equipment used in (i) the generation of  
15          electricity for wholesale or retail sale; (ii) the  
16          generation or treatment of natural or artificial gas for  
17          wholesale or retail sale that is delivered to customers  
18          through pipes, pipelines, or mains; or (iii) the treatment  
19          of water for wholesale or retail sale that is delivered to  
20          customers through pipes, pipelines, or mains. The  
21          provisions of this amendatory Act of the 98th General  
22          Assembly are declaratory of existing law as to the meaning  
23          and scope of this exemption.

24          (5a) the repairing, reconditioning or remodeling, for  
25          a common carrier by rail, of tangible personal property  
26          which belongs to such carrier for hire, and as to which



1       such carrier receives the physical possession of the  
2       repaired, reconditioned or remodeled item of tangible  
3       personal property in Illinois, and which such carrier  
4       transports, or shares with another common carrier in the  
5       transportation of such property, out of Illinois on a  
6       standard uniform bill of lading showing the person who  
7       repaired, reconditioned or remodeled the property to a  
8       destination outside Illinois, for use outside Illinois.

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

21      (6) until July 1, 2003, a sale or transfer of  
22      distillation machinery and equipment, sold as a unit or kit  
23      and assembled or installed by the retailer, which machinery  
24      and equipment is certified by the user to be used only for  
25      the production of ethyl alcohol that will be used for  
26      consumption as motor fuel or as a component of motor fuel

1 for the personal use of such user and not subject to sale  
2 or resale.

3 (7) at the election of any serviceman not required to  
4 be otherwise registered as a retailer under Section 2a of  
5 the Retailers' Occupation Tax Act, made for each fiscal  
6 year sales of service in which the aggregate annual cost  
7 price of tangible personal property transferred as an  
8 incident to the sales of service is less than 35%, or 75%  
9 in the case of servicemen transferring prescription drugs  
10 or servicemen engaged in graphic arts production, of the  
11 aggregate annual total gross receipts from all sales of  
12 service. The purchase of such tangible personal property by  
13 the serviceman shall be subject to tax under the Retailers'  
14 Occupation Tax Act and the Use Tax Act. However, if a  
15 primary serviceman who has made the election described in  
16 this paragraph subcontracts service work to a secondary  
17 serviceman who has also made the election described in this  
18 paragraph, the primary serviceman does not incur a Use Tax  
19 liability if the secondary serviceman (i) has paid or will  
20 pay Use Tax on his or her cost price of any tangible  
21 personal property transferred to the primary serviceman  
22 and (ii) certifies that fact in writing to the primary  
23 serviceman.

24 Tangible personal property transferred incident to the  
25 completion of a maintenance agreement is exempt from the tax  
26 imposed pursuant to this Act.

1 Exemption (5) also includes machinery and equipment used in  
2 the general maintenance or repair of such exempt machinery and  
3 equipment or for in-house manufacture of exempt machinery and  
4 equipment. The machinery and equipment exemption does not  
5 include machinery and equipment used in (i) the generation of  
6 electricity for wholesale or retail sale; (ii) the generation  
7 or treatment of natural or artificial gas for wholesale or  
8 retail sale that is delivered to customers through pipes,  
9 pipelines, or mains; or (iii) the treatment of water for  
10 wholesale or retail sale that is delivered to customers through  
11 pipes, pipelines, or mains. The provisions of this amendatory  
12 Act of the 98th General Assembly are declaratory of existing  
13 law as to the meaning and scope of this exemption. For the  
14 purposes of exemption (5), each of these terms shall have the  
15 following meanings: (1) "manufacturing process" shall mean the  
16 production of any article of tangible personal property,  
17 whether such article is a finished product or an article for  
18 use in the process of manufacturing or assembling a different  
19 article of tangible personal property, by procedures commonly  
20 regarded as manufacturing, processing, fabricating, or  
21 refining which changes some existing material or materials into  
22 a material with a different form, use or name. In relation to a  
23 recognized integrated business composed of a series of  
24 operations which collectively constitute manufacturing, or  
25 individually constitute manufacturing operations, the  
26 manufacturing process shall be deemed to commence with the

1 first operation or stage of production in the series, and shall  
2 not be deemed to end until the completion of the final product  
3 in the last operation or stage of production in the series; and  
4 further, for purposes of exemption (5), photoprocessing is  
5 deemed to be a manufacturing process of tangible personal  
6 property for wholesale or retail sale; (2) "assembling process"  
7 shall mean the production of any article of tangible personal  
8 property, whether such article is a finished product or an  
9 article for use in the process of manufacturing or assembling a  
10 different article of tangible personal property, by the  
11 combination of existing materials in a manner commonly regarded  
12 as assembling which results in a material of a different form,  
13 use or name; (3) "machinery" shall mean major mechanical  
14 machines or major components of such machines contributing to a  
15 manufacturing or assembling process; and (4) "equipment" shall  
16 include any independent device or tool separate from any  
17 machinery but essential to an integrated manufacturing or  
18 assembly process; including computers used primarily in a  
19 manufacturer's computer assisted design, computer assisted  
20 manufacturing (CAD/CAM) system; or any subunit or assembly  
21 comprising a component of any machinery or auxiliary, adjunct  
22 or attachment parts of machinery, such as tools, dies, jigs,  
23 fixtures, patterns and molds; or any parts which require  
24 periodic replacement in the course of normal operation; but  
25 shall not include hand tools. Equipment includes chemicals or  
26 chemicals acting as catalysts but only if the chemicals or

1 chemicals acting as catalysts effect a direct and immediate  
2 change upon a product being manufactured or assembled for  
3 wholesale or retail sale or lease. The purchaser of such  
4 machinery and equipment who has an active resale registration  
5 number shall furnish such number to the seller at the time of  
6 purchase. The user of such machinery and equipment and tools  
7 without an active resale registration number shall prepare a  
8 certificate of exemption for each transaction stating facts  
9 establishing the exemption for that transaction, which  
10 certificate shall be available to the Department for inspection  
11 or audit. The Department shall prescribe the form of the  
12 certificate.

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

26 On and after July 1, 1987, no entity otherwise eligible

1 under exemption (3) of this Section shall make tax free  
2 purchases unless it has an active exemption identification  
3 number issued by the Department.

4 The purchase, employment and transfer of such tangible  
5 personal property as newsprint and ink for the primary purpose  
6 of conveying news (with or without other information) is not a  
7 purchase, use or sale of service or of tangible personal  
8 property within the meaning of this Act.

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

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

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

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

18 1. having or maintaining within this State, directly or  
19 by a subsidiary, an office, distribution house, sales  
20 house, warehouse or other place of business, or any agent  
21 or other representative operating within this State under  
22 the authority of the serviceman or its subsidiary,  
23 irrespective of whether such place of business or agent or  
24 other representative is located here permanently or  
25 temporarily, or whether such serviceman or subsidiary is  
26 licensed to do business in this State;

1           1.1. ~~beginning July 1, 2011,~~ having a contract with a  
2 person located in this State under which the person, for a  
3 commission or other consideration based on the sale of  
4 service by the serviceman, directly or indirectly refers  
5 potential customers to the serviceman by providing to the  
6 potential customers a promotional code or other mechanism  
7 that allows the serviceman to track purchases referred by  
8 such persons. Examples of mechanisms that allow the  
9 serviceman to track purchases referred by such persons  
10 include but are not limited to the use of a link on the  
11 person's Internet website, promotional codes distributed  
12 through the person's hand-delivered or mailed material,  
13 and promotional codes distributed by the person through  
14 radio or other broadcast media. The provisions of this  
15 paragraph 1.1 shall apply only if the cumulative gross  
16 receipts from sales of service by the serviceman to  
17 customers who are referred to the serviceman by all persons  
18 in this State under such contracts exceed \$10,000 during  
19 the preceding 4 quarterly periods ending on the last day of  
20 March, June, September, and December; a serviceman meeting  
21 the requirements of this paragraph 1.1 shall be presumed to  
22 be maintaining a place of business in this State but may  
23 rebut this presumption by submitting proof that the  
24 referrals or other activities pursued within this State by  
25 such persons were not sufficient to meet the nexus  
26 standards of the United States Constitution during the

1       preceding 4 quarterly periods;

2           1.2. beginning July 1, 2011, having a contract with a  
3 person located in this State under which:

4           A. the serviceman sells the same or substantially  
5 similar line of services as the person located in this  
6 State and does so using an identical or substantially  
7 similar name, trade name, or trademark as the person  
8 located in this State; and

9           B. the serviceman provides a commission or other  
10 consideration to the person located in this State based  
11 upon the sale of services by the serviceman.

12       The provisions of this paragraph 1.2 shall apply only if  
13 the cumulative gross receipts from sales of service by the  
14 serviceman to customers in this State under all such  
15 contracts exceed \$10,000 during the preceding 4 quarterly  
16 periods ending on the last day of March, June, September,  
17 and December;

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

23           3. pursuant to a contract with a broadcaster or  
24 publisher located in this State, soliciting orders for  
25 tangible personal property by means of advertising which is  
26 disseminated primarily to consumers located in this State



1 and only secondarily to bordering jurisdictions;

2 4. soliciting orders for tangible personal property by  
3 mail if the solicitations are substantial and recurring and  
4 if the retailer benefits from any banking, financing, debt  
5 collection, telecommunication, or marketing activities  
6 occurring in this State or benefits from the location in  
7 this State of authorized installation, servicing, or  
8 repair facilities;

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

12 6. having a franchisee or licensee operating under its  
13 trade name if the franchisee or licensee is required to  
14 collect the tax under this Section;

15 7. pursuant to a contract with a cable television  
16 operator located in this State, soliciting orders for  
17 tangible personal property by means of advertising which is  
18 transmitted or distributed over a cable television system  
19 in this State; or

20 8. engaging in activities in Illinois, which  
21 activities in the state in which the supply business  
22 engaging in such activities is located would constitute  
23 maintaining a place of business in that state.

24 (Source: P.A. 98-583, eff. 1-1-14.)

25 Section 95. No acceleration or delay. Where this Act makes

1 changes in a statute that is represented in this Act by text  
2 that is not yet or no longer in effect (for example, a Section  
3 represented by multiple versions), the use of that text does  
4 not accelerate or delay the taking effect of (i) the changes  
5 made by this Act or (ii) provisions derived from any other  
6 Public Act.