



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB3822

Introduced 2/25/2009, by Rep. Frank J. Mautino

#### SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-61  
35 ILCS 110/3-51  
35 ILCS 115/2d  
35 ILCS 120/2-51

Amends the Use Tax Act, Service Use Tax Act, Service Occupation Tax Act, and Retailers' Occupation Tax Act. With respect to the rolling stock exemption for aircraft and watercraft, requires that greater than 50% of the trips or miles in a 12-month period must be qualifying trips (interstate, for hire). Provides that an election of the trips or mileage method remains in effect for the life of the item (now, during a notice of liability period). Effective immediately.

LRB096 08995 RCE 19134 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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  
5 3-61 as follows:

6 (35 ILCS 105/3-61)

7 Sec. 3-61. Motor vehicles; trailers; use as rolling stock  
8 definition.

9 (a) Through June 30, 2003, "use as rolling stock moving in  
10 interstate commerce" in subsections (b) and (c) of Section 3-55  
11 means for motor vehicles, as defined in Section 1-146 of the  
12 Illinois Vehicle Code, and trailers, as defined in Section  
13 1-209 of the Illinois Vehicle Code, when on 15 or more  
14 occasions in a 12-month period the motor vehicle and trailer  
15 has carried persons or property for hire in interstate  
16 commerce, even just between points in Illinois, if the motor  
17 vehicle and trailer transports persons whose journeys or  
18 property whose shipments originate or terminate outside  
19 Illinois. This definition applies to all property purchased for  
20 the purpose of being attached to those motor vehicles or  
21 trailers as a part thereof.

22 (b) On and after July 1, 2003 and through June 30, 2004,  
23 "use as rolling stock moving in interstate commerce" in

1 paragraphs (b) and (c) of Section 3-55 occurs for motor  
2 vehicles, as defined in Section 1-146 of the Illinois Vehicle  
3 Code, when during a 12-month period the rolling stock has  
4 carried persons or property for hire in interstate commerce for  
5 51% of its total trips and transports persons whose journeys or  
6 property whose shipments originate or terminate outside  
7 Illinois. Trips that are only between points in Illinois shall  
8 not be counted as interstate trips when calculating whether the  
9 tangible personal property qualifies for the exemption but such  
10 trips shall be included in total trips taken.

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

1 ~~for any period for which the Department may issue a notice of~~  
2 ~~tax liability under this Act.~~

3 For purposes of determining qualifying trips or miles,  
4 motor vehicles that carry persons or property for hire, even  
5 just between points in Illinois, will be considered used for  
6 hire in interstate commerce if the motor vehicle transports  
7 persons whose journeys or property whose shipments originate or  
8 terminate outside Illinois. The exemption for motor vehicles  
9 used as rolling stock moving in interstate commerce may be  
10 claimed only for the following vehicles: (i) motor vehicles  
11 whose gross vehicle weight rating exceeds 16,000 pounds; and  
12 (ii) limousines, as defined in Section 1-139.1 of the Illinois  
13 Vehicle Code. This definition applies to all property purchased  
14 for the purpose of being attached to those motor vehicles as a  
15 part thereof.

16 (d) Beginning July 1, 2004, "use as rolling stock moving in  
17 interstate commerce" in paragraphs (b) and (c) of Section 3-55  
18 occurs for trailers, as defined in Section 1-209 of the  
19 Illinois Vehicle Code, semitrailers as defined in Section 1-187  
20 of the Illinois Vehicle Code, and pole trailers as defined in  
21 Section 1-161 of the Illinois Vehicle Code, when during a  
22 12-month period the rolling stock has carried persons or  
23 property for hire in interstate commerce for greater than 50%  
24 of its total trips for that period or for greater than 50% of  
25 its total miles for that period. The person claiming the  
26 exemption for a trailer or trailers that will not be dedicated

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

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

- 26 (1) If a trailer, semitrailer, or pole trailer is

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

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

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

1 trailers under this subpart shall not be allowed as to any  
2 fraction of a trailer, semitrailer, or pole trailer.

3 (e) Beginning July 1, 2009, "use as rolling stock moving in  
4 interstate commerce" in paragraphs (b) and (c) of Section 3-55  
5 occurs for aircraft and watercraft when during a 12-month  
6 period the rolling stock has carried persons or property for  
7 hire in interstate commerce for greater than 50% of its total  
8 trips for that period or for greater than 50% of its total  
9 miles for that period. The person claiming the exemption shall  
10 make an election at the time of purchase to use either the  
11 trips or mileage method. Persons who purchased aircraft or  
12 watercraft prior to July 1, 2009 shall make an election to use  
13 either the trips or mileage method and document that election  
14 in their books and records. If no election is made under this  
15 subsection to use the trips or mileage method, the person shall  
16 be deemed to have chosen the mileage method.

17 (f) Any election to use either the trips or mileage method  
18 made under the provisions of subsections (c), (d), or (e) of  
19 this Section will remain in effect for the life of that item.

20 (Source: P.A. 95-528, eff. 8-28-07.)

21 Section 10. The Service Use Tax Act is amended by changing  
22 Section 3-51 as follows:

23 (35 ILCS 110/3-51)

24 Sec. 3-51. Motor vehicles; trailers; use as rolling stock

1 definition.

2 (a) Through June 30, 2003, "use as rolling stock moving in  
3 interstate commerce" in subsection (b) of Section 3-45 means  
4 for motor vehicles, as defined in Section 1-46 of the Illinois  
5 Vehicle Code, and trailers, as defined in Section 1-209 of the  
6 Illinois Vehicle Code, when on 15 or more occasions in a  
7 12-month period the motor vehicle and trailer has carried  
8 persons or property for hire in interstate commerce, even just  
9 between points in Illinois, if the motor vehicle and trailer  
10 transports persons whose journeys or property whose shipments  
11 originate or terminate outside Illinois. This definition  
12 applies to all property purchased for the purpose of being  
13 attached to those motor vehicles or trailers as a part thereof.

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

1 trips taken.

2 (c) Beginning July 1, 2004, "use as rolling stock moving in  
3 interstate commerce" in paragraphs (4) and (4a) of the  
4 definition of "sale of service" in Section 2 and subsection (b)  
5 of Section 3-45 occurs for motor vehicles, as defined in  
6 Section 1-146 of the Illinois Vehicle Code, when during a  
7 12-month period the rolling stock has carried persons or  
8 property for hire in interstate commerce for greater than 50%  
9 of its total trips for that period or for greater than 50% of  
10 its total miles for that period. The person claiming the  
11 exemption shall make an election at the time of purchase to use  
12 either the trips or mileage method. Persons who purchased motor  
13 vehicles prior to July 1, 2004 shall make an election to use  
14 either the trips or mileage method and document that election  
15 in their books and records. If no election is made under this  
16 subsection to use the trips or mileage method, the person shall  
17 be deemed to have chosen the mileage method. ~~Any election to  
18 use either the trips or mileage method will remain in effect  
19 for that motor vehicle for any period for which the Department  
20 may issue a notice of tax liability under this Act.~~

21 For purposes of determining qualifying trips or miles,  
22 motor vehicles that carry persons or property for hire, even  
23 just between points in Illinois, will be considered used for  
24 hire in interstate commerce if the motor vehicle transports  
25 persons whose journeys or property whose shipments originate or  
26 terminate outside Illinois. The exemption for motor vehicles

1 used as rolling stock moving in interstate commerce may be  
2 claimed only for the following vehicles: (i) motor vehicles  
3 whose gross vehicle weight rating exceeds 16,000 pounds; and  
4 (ii) limousines, as defined in Section 1-139.1 of the Illinois  
5 Vehicle Code. This definition applies to all property purchased  
6 for the purpose of being attached to those motor vehicles as a  
7 part thereof.

8 (d) Beginning July 1, 2004, "use as rolling stock moving in  
9 interstate commerce" in paragraphs (4) and (4a) of the  
10 definition of "sale of service" in Section 2 and subsection (b)  
11 of Section 3-45 occurs for trailers, as defined in Section  
12 1-209 of the Illinois Vehicle Code, semitrailers as defined in  
13 Section 1-187 of the Illinois Vehicle Code, and pole trailers  
14 as defined in Section 1-161 of the Illinois Vehicle Code, when  
15 during a 12-month period the rolling stock has carried persons  
16 or property for hire in interstate commerce for greater than  
17 50% of its total trips for that period or for greater than 50%  
18 of its total miles for that period. The person claiming the  
19 exemption for a trailer or trailers that will not be dedicated  
20 to a motor vehicle or group of motor vehicles shall make an  
21 election at the time of purchase to use either the trips or  
22 mileage method. Persons who purchased trailers prior to July 1,  
23 2004 that are not dedicated to a motor vehicle or group of  
24 motor vehicles shall make an election to use either the trips  
25 or mileage method and document that election in their books and  
26 records. If no election is made under this subsection to use

1 the trips or mileage method, the person shall be deemed to have  
2 chosen the mileage method. ~~Any election to use either the trips  
3 or mileage method will remain in effect for that trailer for  
4 any period for which the Department may issue a notice of tax  
5 liability under this Act.~~

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

19 (1) If a trailer, semitrailer, or pole trailer is  
20 dedicated to a motor vehicle that qualifies as rolling  
21 stock moving in interstate commerce under subsection (c) of  
22 this Section, then that trailer, semitrailer, or pole  
23 trailer qualifies as rolling stock moving in interstate  
24 commerce under this subsection.

25 (2) If a trailer, semitrailer, or pole trailer is  
26 dedicated to a group of motor vehicles that all qualify as

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

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

22 (e) Beginning July 1, 2009, "use as rolling stock moving in  
23 interstate commerce" in paragraphs (4) and (4a) of the  
24 definition of "sale of service" in Section 2 and subsection (b)  
25 of Section 3-45 occurs for aircraft and watercraft when during  
26 a 12-month period the rolling stock has carried persons or

1 property for hire in interstate commerce for greater than 50%  
2 of its total trips for that period or for greater than 50% of  
3 its total miles for that period. The person claiming the  
4 exemption shall make an election at the time of purchase to use  
5 either the trips or mileage method. Persons who purchased  
6 aircraft or watercraft prior to July 1, 2009 shall make an  
7 election to use either the trips or mileage method and document  
8 that election in their books and records. If no election is  
9 made under this subsection to use the trips or mileage method,  
10 the person shall be deemed to have chosen the mileage method.

11 (f) Any election to use either the trips or mileage method  
12 made under the provisions of subsections (c), (d), or (e) of  
13 this Section will remain in effect for the life of that item.

14 (Source: P.A. 95-528, eff. 8-28-07.)

15 Section 15. The Service Occupation Tax Act is amended by  
16 changing Section 2d as follows:

17 (35 ILCS 115/2d)

18 Sec. 2d. Motor vehicles; trailers; use as rolling stock  
19 definition.

20 (a) Through June 30, 2003, "use as rolling stock moving in  
21 interstate commerce" in subsections (d) and (d-1) of the  
22 definition of "sale of service" in Section 2 means for motor  
23 vehicles, as defined in Section 1-146 of the Illinois Vehicle  
24 Code, and trailers, as defined in Section 1-209 of the Illinois

1 Vehicle Code, when on 15 or more occasions in a 12-month period  
2 the motor vehicle and trailer has carried persons or property  
3 for hire in interstate commerce, even just between points in  
4 Illinois, if the motor vehicle and trailer transports persons  
5 whose journeys or property whose shipments originate or  
6 terminate outside Illinois. This definition applies to all  
7 property purchased for the purpose of being attached to those  
8 motor vehicles or trailers as a part thereof.

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

22 (c) Beginning July 1, 2004, "use as rolling stock moving in  
23 interstate commerce" in paragraphs (d) and (d-1) of the  
24 definition of "sale of service" in Section 2 occurs for motor  
25 vehicles, as defined in Section 1-146 of the Illinois Vehicle  
26 Code, when during a 12-month period the rolling stock has

1 carried persons or property for hire in interstate commerce for  
2 greater than 50% of its total trips for that period or for  
3 greater than 50% of its total miles for that period. The person  
4 claiming the exemption shall make an election at the time of  
5 purchase to use either the trips or mileage method. Persons who  
6 purchased motor vehicles prior to July 1, 2004 shall make an  
7 election to use either the trips or mileage method and document  
8 that election in their books and records. If no election is  
9 made under this subsection to use the trips or mileage method,  
10 the person shall be deemed to have chosen the mileage method.  
11 ~~Any election to use either the trips or mileage method will~~  
12 ~~remain in effect for that motor vehicle for any period for~~  
13 ~~which the Department may issue a notice of tax liability under~~  
14 ~~this Act.~~

15 For purposes of determining qualifying trips or miles,  
16 motor vehicles that carry persons or property for hire, even  
17 just between points in Illinois, will be considered used for  
18 hire in interstate commerce if the motor vehicle transports  
19 persons whose journeys or property whose shipments originate or  
20 terminate outside Illinois. The exemption for motor vehicles  
21 used as rolling stock moving in interstate commerce may be  
22 claimed only for the following vehicles: (i) motor vehicles  
23 whose gross vehicle weight rating exceeds 16,000 pounds; and  
24 (ii) limousines, as defined in Section 1-139.1 of the Illinois  
25 Vehicle Code. This definition applies to all property purchased  
26 for the purpose of being attached to those motor vehicles as a

1 part thereof.

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

25 For purposes of determining qualifying trips or miles,  
26 trailers, semitrailers, or pole trailers that carry property

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

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

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

24 (3) If one or more trailers, semitrailers, or pole  
25 trailers are dedicated to a group of motor vehicles and not  
26 all of those motor vehicles in that group qualify as

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

15 (e) Beginning July 1, 2009, "use as rolling stock moving in  
16 interstate commerce" in paragraphs (d) and (d-1) of the  
17 definition of "sale of service" in Section 2 occurs for  
18 aircraft and watercraft when during a 12-month period the  
19 rolling stock has carried persons or property for hire in  
20 interstate commerce for greater than 50% of its total trips for  
21 that period or for greater than 50% of its total miles for that  
22 period. The person claiming the exemption shall make an  
23 election at the time of purchase to use either the trips or  
24 mileage method. Persons who purchased aircraft or watercraft  
25 prior to July 1, 2009 shall make an election to use either the  
26 trips or mileage method and document that election in their

1 books and records. If no election is made under this subsection  
2 to use the trips or mileage method, the person shall be deemed  
3 to have chosen the mileage method.

4 (f) Any election to use either the trips or mileage method  
5 made under the provisions of subsections (c), (d), or (e) of  
6 this Section will remain in effect for the life of that item.

7 (Source: P.A. 95-528, eff. 8-28-07.)

8 Section 20. The Retailers' Occupation Tax Act is amended by  
9 changing Section 2-51 as follows:

10 (35 ILCS 120/2-51)

11 Sec. 2-51. Motor vehicles; trailers; use as rolling stock  
12 definition.

13 (a) Through June 30, 2003, "use as rolling stock moving in  
14 interstate commerce" in paragraphs (12) and (13) of Section 2-5  
15 means for motor vehicles, as defined in Section 1-146 of the  
16 Illinois Vehicle Code, and trailers, as defined in Section  
17 1-209 of the Illinois Vehicle Code, when on 15 or more  
18 occasions in a 12-month period the motor vehicle and trailer  
19 has carried persons or property for hire in interstate  
20 commerce, even just between points in Illinois, if the motor  
21 vehicle and trailer transports persons whose journeys or  
22 property whose shipments originate or terminate outside  
23 Illinois. This definition applies to all property purchased for  
24 the purpose of being attached to those motor vehicles or

1 trailers as a part thereof.

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

14 (c) Beginning July 1, 2004, "use as rolling stock moving in  
15 interstate commerce" in paragraphs (12) and (13) of Section 2-5  
16 occurs for motor vehicles, as defined in Section 1-146 of the  
17 Illinois Vehicle Code, when during a 12-month period the  
18 rolling stock has carried persons or property for hire in  
19 interstate commerce for greater than 50% of its total trips for  
20 that period or for greater than 50% of its total miles for that  
21 period. The person claiming the exemption shall make an  
22 election at the time of purchase to use either the trips or  
23 mileage method. Persons who purchased motor vehicles prior to  
24 July 1, 2004 shall make an election to use either the trips or  
25 mileage method and document that election in their books and  
26 records. If no election is made under this subsection to use

1 the trips or mileage method, the person shall be deemed to have  
2 chosen the mileage method. ~~Any election to use either the trips  
3 or mileage method will remain in effect for that motor vehicle  
4 for any period for which the Department may issue a notice of  
5 tax liability under this Act.~~

6 For purposes of determining qualifying trips or miles,  
7 motor vehicles that carry persons or property for hire, even  
8 just between points in Illinois, will be considered used for  
9 hire in interstate commerce if the motor vehicle transports  
10 persons whose journeys or property whose shipments originate or  
11 terminate outside Illinois. The exemption for motor vehicles  
12 used as rolling stock moving in interstate commerce may be  
13 claimed only for the following vehicles: (i) motor vehicles  
14 whose gross vehicle weight rating exceeds 16,000 pounds; and  
15 (ii) limousines, as defined in Section 1-139.1 of the Illinois  
16 Vehicle Code. This definition applies to all property purchased  
17 for the purpose of being attached to those motor vehicles as a  
18 part thereof.

19 (d) Beginning July 1, 2004, "use as rolling stock moving in  
20 interstate commerce" in paragraphs (12) and (13) of Section 2-5  
21 occurs for trailers, as defined in Section 1-209 of the  
22 Illinois Vehicle Code, semitrailers as defined in Section 1-187  
23 of the Illinois Vehicle Code, and pole trailers as defined in  
24 Section 1-161 of the Illinois Vehicle Code, when during a  
25 12-month period the rolling stock has carried persons or  
26 property for hire in interstate commerce for greater than 50%

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

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

1 such qualifying use by providing documentation of the  
2 following:

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

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

15 (3) If one or more trailers, semitrailers, or pole  
16 trailers are dedicated to a group of motor vehicles and not  
17 all of those motor vehicles in that group qualify as  
18 rolling stock moving in interstate commerce under  
19 subsection (c) of this Section, then the percentage of  
20 those trailers, semitrailers, or pole trailers that  
21 qualifies as rolling stock moving in interstate commerce  
22 under this subsection is equal to the percentage of those  
23 motor vehicles in that group that qualify as rolling stock  
24 moving in interstate commerce under subsection (c) of this  
25 Section to which those trailers, semitrailers, or pole  
26 trailers are dedicated. However, to determine the

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

6 (e) Beginning July 1, 2009, "use as rolling stock moving in  
7 interstate commerce" in paragraphs (12) and (13) of Section 2-5  
8 occurs for aircraft and watercraft when during a 12-month  
9 period the rolling stock has carried persons or property for  
10 hire in interstate commerce for greater than 50% of its total  
11 trips for that period or for greater than 50% of its total  
12 miles for that period. The person claiming the exemption shall  
13 make an election at the time of purchase to use either the  
14 trips or mileage method. Persons who purchased aircraft or  
15 watercraft prior to July 1, 2009 shall make an election to use  
16 either the trips or mileage method and document that election  
17 in their books and records. If no election is made under this  
18 subsection to use the trips or mileage method, the person shall  
19 be deemed to have chosen the mileage method.

20 (f) Any election to use either the trips or mileage method  
21 made under the provisions of subsections (c), (d), or (e) of  
22 this Section will remain in effect for the life of that item.

23 (Source: P.A. 95-528, eff. 8-28-07.)

24 Section 99. Effective date. This Act takes effect upon  
25 becoming law.