

HB3178



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3178

by Rep. Deanne M. Mazzochi

SYNOPSIS AS INTRODUCED:

See Index

Amends the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act. Changes the short title of the Act to the Cigarette, Electronic Cigarette, and Alternative Nicotine Product Act. Raises the minimum age for the purchase, possession, and use of tobacco products, electronic cigarettes, and alternative nicotine products from 18 years of age to 21 years of age. Authorizes the Secretary of State to issue a smoking license to a person who: (1) is at least 18 years of age but under 21 years of age; (2) has completed the 8-hour online educational program regarding the dangers and consequences of smoking as verified by the Department of Public Health; and (3) has paid a \$50 fee to the Secretary of State. Provides for penalties and other matters. Repeals the Smokeless Tobacco Limitation Act. Amends various other Acts to make conforming changes.

LRB101 09496 CPF 54594 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

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

4 Section 5. The Cigarette Tax Act is amended by changing
5 Section 6 as follows:

6 (35 ILCS 130/6) (from Ch. 120, par. 453.6)

7 Sec. 6. Revocation, cancellation, or suspension of
8 license. The Department may, after notice and hearing as
9 provided for by this Act, revoke, cancel or suspend the license
10 of any distributor, secondary distributor, or retailer for the
11 violation of any provision of this Act, or for noncompliance
12 with any provision herein contained, or for any noncompliance
13 with any lawful rule or regulation promulgated by the
14 Department under Section 8 of this Act, or because the licensee
15 is determined to be ineligible for a distributor's license for
16 any one or more of the reasons provided for in Section 4 of
17 this Act, or because the licensee is determined to be
18 ineligible for a secondary distributor's license for any one or
19 more of the reasons provided for in Section 4c of this Act, or
20 because the licensee is determined to be ineligible for a
21 retailer's license for any one or more of the reasons provided
22 for in Section 4g of this Act. However, no such license shall
23 be revoked, cancelled or suspended, except after a hearing by

1 the Department with notice to the distributor, secondary
2 distributor, or retailer, as aforesaid, and affording such
3 distributor, secondary distributor, or retailer a reasonable
4 opportunity to appear and defend, and any distributor,
5 secondary distributor, or retailer aggrieved by any decision of
6 the Department with respect thereto may have the determination
7 of the Department judicially reviewed, as herein provided.

8 The Department may revoke, cancel, or suspend the license
9 of any distributor for a violation of the Tobacco Product
10 Manufacturers' Escrow Enforcement Act as provided in Section 30
11 of that Act. The Department may revoke, cancel, or suspend the
12 license of any secondary distributor for a violation of
13 subsection (e) of Section 15 of the Tobacco Product
14 Manufacturers' Escrow Enforcement Act.

15 If the retailer has a training program that facilitates
16 compliance with minimum-age tobacco laws, the Department shall
17 suspend for 3 days the license of that retailer for a fourth or
18 subsequent violation of the Cigarette, Electronic Cigarette,
19 and Alternative Nicotine Product Prevention of Tobacco Use by
20 Minors and Sale and Distribution of Tobacco Products Act, as
21 provided in subsection (a) of Section 2 of that Act. For the
22 purposes of this Section, any violation of subsection (a) of
23 Section 2 of the Cigarette, Electronic Cigarette, and
24 Alternative Nicotine Product Prevention of Tobacco Use by
25 Minors and Sale and Distribution of Tobacco Products Act
26 occurring at the retailer's licensed location during a 24-month

1 period shall be counted as a violation against the retailer.

2 If the retailer does not have a training program that
3 facilitates compliance with minimum-age tobacco laws, the
4 Department shall suspend for 3 days the license of that
5 retailer for a second violation of the Cigarette, Electronic
6 Cigarette, and Alternative Nicotine Product ~~Prevention of~~
7 ~~Tobacco Use by Minors and Sale and Distribution of Tobacco~~
8 ~~Products~~ Act, as provided in subsection (a-5) of Section 2 of
9 that Act.

10 If the retailer does not have a training program that
11 facilitates compliance with minimum-age tobacco laws, the
12 Department shall suspend for 7 days the license of that
13 retailer for a third violation of the Cigarette, Electronic
14 Cigarette, and Alternative Nicotine Product ~~Prevention of~~
15 ~~Tobacco Use by Minors and Sale and Distribution of Tobacco~~
16 ~~Products~~ Act, as provided in subsection (a-5) of Section 2 of
17 that Act.

18 If the retailer does not have a training program that
19 facilitates compliance with minimum-age tobacco laws, the
20 Department shall suspend for 30 days the license of a retailer
21 for a fourth or subsequent violation of the Cigarette,
22 Electronic Cigarette, and Alternative Nicotine Product
23 ~~Prevention of Tobacco Use by Minors and Sale and Distribution~~
24 ~~of Tobacco Products~~ Act, as provided in subsection (a-5) of
25 Section 2 of that Act.

26 A training program that facilitates compliance with

1 minimum-age tobacco laws must include at least the following
2 elements: (i) it must explain that only individuals displaying
3 valid identification demonstrating that they are 21 ~~18~~ years of
4 age or older shall be eligible to purchase cigarettes or
5 tobacco products ~~and~~ (ii) it must explain where a clerk can
6 check identification for a date of birth; and (iii) it must
7 explain Section 1.1 of the Cigarette, Electronic Cigarette, and
8 Alternative Nicotine Product Act and provide advice to assist
9 in ascertaining the authenticity of smoking licenses issued
10 under that Act. The training may be conducted electronically.
11 Each retailer that has a training program shall require each
12 employee who completes the training program to sign a form
13 attesting that the employee has received and completed tobacco
14 training. The form shall be kept in the employee's file and may
15 be used to provide proof of training.

16 Nothing in this Section shall be construed to prohibit
17 sales of tobacco products, electronic cigarettes, and
18 alternative nicotine products to the holder of a smoking
19 license under Section 1.1 of the Cigarette, Electronic
20 Cigarette, and Alternative Nicotine Product Act.

21 Any distributor, secondary distributor, or retailer
22 aggrieved by any decision of the Department under this Section
23 may, within 20 days after notice of the decision, protest and
24 request a hearing. Upon receiving a request for a hearing, the
25 Department shall give notice in writing to the distributor,
26 secondary distributor, or retailer requesting the hearing that

1 contains a statement of the charges preferred against the
2 distributor, secondary distributor, or retailer and that
3 states the time and place fixed for the hearing. The Department
4 shall hold the hearing in conformity with the provisions of
5 this Act and then issue its final administrative decision in
6 the matter to the distributor, secondary distributor, or
7 retailer. In the absence of a protest and request for a hearing
8 within 20 days, the Department's decision shall become final
9 without any further determination being made or notice given.

10 No license so revoked, as aforesaid, shall be reissued to
11 any such distributor, secondary distributor, or retailer
12 within a period of 6 months after the date of the final
13 determination of such revocation. No such license shall be
14 reissued at all so long as the person who would receive the
15 license is ineligible to receive a distributor's license under
16 this Act for any one or more of the reasons provided for in
17 Section 4 of this Act, is ineligible to receive a secondary
18 distributor's license under this Act for any one or more of the
19 reasons provided for in Section 4c of this Act, or is
20 determined to be ineligible for a retailer's license under the
21 Act for any one or more of the reasons provided for in Section
22 4g of this Act.

23 The Department upon complaint filed in the circuit court
24 may by injunction restrain any person who fails, or refuses, to
25 comply with any of the provisions of this Act from acting as a
26 distributor, secondary distributor, or retailer of cigarettes

1 in this State.

2 (Source: P.A. 98-1055, eff. 1-1-16; 99-192, eff. 1-1-16.)

3 Section 10. The Tobacco Products Tax Act of 1995 is amended
4 by changing Section 10-25 as follows:

5 (35 ILCS 143/10-25)

6 Sec. 10-25. License actions.

7 (a) The Department may, after notice and a hearing, revoke,
8 cancel, or suspend the license of any distributor or retailer
9 who violates any of the provisions of this Act, fails to keep
10 books and records as required under this Act, fails to make
11 books and records available for inspection upon demand by a
12 duly authorized employee of the Department, or violates a rule
13 or regulation of the Department for the administration and
14 enforcement of this Act. The notice shall specify the alleged
15 violation or violations upon which the revocation,
16 cancellation, or suspension proceeding is based.

17 (b) The Department may revoke, cancel, or suspend the
18 license of any distributor for a violation of the Tobacco
19 Product Manufacturers' Escrow Enforcement Act as provided in
20 Section 20 of that Act.

21 (c) If the retailer has a training program that facilitates
22 compliance with minimum-age tobacco laws, the Department shall
23 suspend for 3 days the license of that retailer for a fourth or
24 subsequent violation of the Cigarette, Electronic Cigarette,

1 ~~and Alternative Nicotine Product Prevention of Tobacco Use by~~
2 ~~Minors and Sale and Distribution of Tobacco Products Act~~, as
3 provided in subsection (a) of Section 2 of that Act. For the
4 purposes of this Section, any violation of subsection (a) of
5 Section 2 of the Cigarette, Electronic Cigarette, and
6 Alternative Nicotine Product Prevention of Tobacco Use by
7 ~~Minors and Sale and Distribution of Tobacco Products Act~~
8 occurring at the retailer's licensed location, during a
9 24-month period, shall be counted as a violation against the
10 retailer.

11 If the retailer does not have a training program that
12 facilitates compliance with minimum-age tobacco laws, the
13 Department shall suspend for 3 days the license of that
14 retailer for a second violation of the Cigarette, Electronic
15 Cigarette, and Alternative Nicotine Product Prevention of
16 ~~Tobacco Use by Minors and Sale and Distribution of Tobacco~~
17 ~~Products Act~~, as provided in subsection (a-5) of Section 2 of
18 that Act.

19 If the retailer does not have a training program that
20 facilitates compliance with minimum-age tobacco laws, the
21 Department shall suspend for 7 days the license of that
22 retailer for a third violation of the Cigarette, Electronic
23 Cigarette, and Alternative Nicotine Product Prevention of
24 ~~Tobacco Use by Minors and Sale and Distribution of Tobacco~~
25 ~~Products Act~~, as provided in subsection (a-5) of Section 2 of
26 that Act.

1 If the retailer does not have a training program that
2 facilitates compliance with minimum-age tobacco laws, the
3 Department shall suspend for 30 days the license of a retailer
4 for a fourth or subsequent violation of the Cigarette,
5 Electronic Cigarette, and Alternative Nicotine Product
6 Prevention of Tobacco Use by Minors and Sale and Distribution
7 of Tobacco Products Act, as provided in subsection (a-5) of
8 Section 2 of that Act.

9 A training program that facilitates compliance with
10 minimum-age tobacco laws must include at least the following
11 elements: (i) it must explain that only individuals displaying
12 valid identification demonstrating that they are 21 ~~18~~ years of
13 age or older shall be eligible to purchase cigarettes or
14 tobacco products ~~and~~ (ii) it must explain where a clerk can
15 check identification for a date of birth; and (iii) it must
16 explain Section 1.1 of the Cigarette, Electronic Cigarette, and
17 Alternative Nicotine Product Act and provide advice to assist
18 in ascertaining the authenticity of smoking licenses issued
19 under that Act. The training may be conducted electronically.
20 Each retailer that has a training program shall require each
21 employee who completes the training program to sign a form
22 attesting that the employee has received and completed tobacco
23 training. The form shall be kept in the employee's file and may
24 be used to provide proof of training.

25 Nothing in this Section shall be construed to prohibit
26 sales of tobacco products, electronic cigarettes, and

1 alternative nicotine products to the holder of a smoking
2 license under Section 1.1 of the Cigarette, Electronic
3 Cigarette, and Alternative Nicotine Product Act.

4 (d) The Department may, by application to any circuit
5 court, obtain an injunction restraining any person who engages
6 in business as a distributor of tobacco products without a
7 license (either because his or her license has been revoked,
8 canceled, or suspended or because of a failure to obtain a
9 license in the first instance) from engaging in that business
10 until that person, as if that person were a new applicant for a
11 license, complies with all of the conditions, restrictions, and
12 requirements of Section 10-20 of this Act and qualifies for and
13 obtains a license. Refusal or neglect to obey the order of the
14 court may result in punishment for contempt.

15 (Source: P.A. 99-192, eff. 1-1-16; 100-940, eff. 8-17-18.)

16 Section 15. The Liquor Control Act of 1934 is amended by
17 changing Section 6-16.1 as follows:

18 (235 ILCS 5/6-16.1)

19 Sec. 6-16.1. Enforcement actions.

20 (a) A licensee or an officer, associate, member,
21 representative, agent, or employee of a licensee may sell,
22 give, or deliver alcoholic liquor to a person under the age of
23 21 years or authorize the sale, gift, or delivery of alcoholic
24 liquor to a person under the age of 21 years pursuant to a plan

1 or action to investigate, patrol, or otherwise conduct a "sting
2 operation" or enforcement action against a person employed by
3 the licensee or on any licensed premises if the licensee or
4 officer, associate, member, representative, agent, or employee
5 of the licensee provides written notice, at least 14 days
6 before the "sting operation" or enforcement action, unless
7 governing body of the municipality or county having
8 jurisdiction sets a shorter period by ordinance, to the law
9 enforcement agency having jurisdiction, the local liquor
10 control commissioner, or both. Notice provided under this
11 Section shall be valid for a "sting operation" or enforcement
12 action conducted within 60 days of the provision of that
13 notice, unless the governing body of the municipality or county
14 having jurisdiction sets a shorter period by ordinance.

15 (b) A local liquor control commission or unit of local
16 government that conducts alcohol and tobacco compliance
17 operations shall establish a policy and standards for alcohol
18 and tobacco compliance operations to investigate whether a
19 licensee is furnishing (1) alcoholic liquor to persons under 21
20 years of age in violation of this Act or (2) tobacco to persons
21 in violation of the Cigarette, Electronic Cigarette, and
22 Alternative Nicotine Product ~~Prevention of Tobacco Use by~~
23 ~~Minors and Sale and Distribution of Tobacco Products~~ Act.

24 (c) The Illinois Law Enforcement Training Standards Board
25 shall develop a model policy and guidelines for the operation
26 of alcohol and tobacco compliance checks by local law

1 enforcement officers. The Illinois Law Enforcement Training
2 Standards Board shall also require the supervising officers of
3 such compliance checks to have met a minimum training standard
4 as determined by the Board. The Board shall have the right to
5 waive any training based on current written policies and
6 procedures for alcohol and tobacco compliance check operations
7 and in-service training already administered by the local law
8 enforcement agency, department, or office.

9 (d) The provisions of subsections (b) and (c) do not apply
10 to a home rule unit with more than 2,000,000 inhabitants.

11 (e) A home rule unit, other than a home rule unit with more
12 than 2,000,000 inhabitants, may not regulate enforcement
13 actions in a manner inconsistent with the regulation of
14 enforcement actions under this Section. This subsection (e) is
15 a limitation under subsection (i) of Section 6 of Article VII
16 of the Illinois Constitution on the concurrent exercise by home
17 rule units of powers and functions exercised by the State.

18 (f) A licensee who is the subject of an enforcement action
19 or "sting operation" under this Section and is found, pursuant
20 to the enforcement action, to be in compliance with this Act
21 shall be notified by the enforcement agency action that no
22 violation was found within 30 days after the finding.

23 (Source: P.A. 96-179, eff. 8-10-09; 96-446, eff. 1-1-10;
24 96-1000, eff. 7-2-10.)

25 Section 20. The Juvenile Court Act of 1987 is amended by

1 changing Sections 5-615 and 5-710 as follows:

2 (705 ILCS 405/5-615)

3 Sec. 5-615. Continuance under supervision.

4 (1) The court may enter an order of continuance under
5 supervision for an offense other than first degree murder, a
6 Class X felony or a forcible felony:

7 (a) upon an admission or stipulation by the appropriate
8 respondent or minor respondent of the facts supporting the
9 petition and before the court makes a finding of
10 delinquency, and in the absence of objection made in open
11 court by the minor, his or her parent, guardian, or legal
12 custodian, the minor's attorney or the State's Attorney; or

13 (b) upon a finding of delinquency and after considering
14 the circumstances of the offense and the history,
15 character, and condition of the minor, if the court is of
16 the opinion that:

17 (i) the minor is not likely to commit further
18 crimes;

19 (ii) the minor and the public would be best served
20 if the minor were not to receive a criminal record; and

21 (iii) in the best interests of justice an order of
22 continuance under supervision is more appropriate than
23 a sentence otherwise permitted under this Act.

24 (2) (Blank).

25 (3) Nothing in this Section limits the power of the court

1 to order a continuance of the hearing for the production of
2 additional evidence or for any other proper reason.

3 (4) When a hearing where a minor is alleged to be a
4 delinquent is continued pursuant to this Section, the period of
5 continuance under supervision may not exceed 24 months. The
6 court may terminate a continuance under supervision at any time
7 if warranted by the conduct of the minor and the ends of
8 justice or vacate the finding of delinquency or both.

9 (5) When a hearing where a minor is alleged to be
10 delinquent is continued pursuant to this Section, the court
11 may, as conditions of the continuance under supervision,
12 require the minor to do any of the following:

13 (a) not violate any criminal statute of any
14 jurisdiction;

15 (b) make a report to and appear in person before any
16 person or agency as directed by the court;

17 (c) work or pursue a course of study or vocational
18 training;

19 (d) undergo medical or psychotherapeutic treatment
20 rendered by a therapist licensed under the provisions of
21 the Medical Practice Act of 1987, the Clinical Psychologist
22 Licensing Act, or the Clinical Social Work and Social Work
23 Practice Act, or an entity licensed by the Department of
24 Human Services as a successor to the Department of
25 Alcoholism and Substance Abuse, for the provision of
26 substance use disorder services as defined in Section 1-10

1 of the Substance Use Disorder Act;

2 (e) attend or reside in a facility established for the
3 instruction or residence of persons on probation;

4 (f) support his or her dependents, if any;

5 (g) pay costs;

6 (h) refrain from possessing a firearm or other
7 dangerous weapon, or an automobile;

8 (i) permit the probation officer to visit him or her at
9 his or her home or elsewhere;

10 (j) reside with his or her parents or in a foster home;

11 (k) attend school;

12 (k-5) with the consent of the superintendent of the
13 facility, attend an educational program at a facility other
14 than the school in which the offense was committed if he or
15 she committed a crime of violence as defined in Section 2
16 of the Crime Victims Compensation Act in a school, on the
17 real property comprising a school, or within 1,000 feet of
18 the real property comprising a school;

19 (l) attend a non-residential program for youth;

20 (m) contribute to his or her own support at home or in
21 a foster home;

22 (n) perform some reasonable public or community
23 service;

24 (o) make restitution to the victim, in the same manner
25 and under the same conditions as provided in subsection (4)
26 of Section 5-710, except that the "sentencing hearing"

1 referred to in that Section shall be the adjudicatory
2 hearing for purposes of this Section;

3 (p) comply with curfew requirements as designated by
4 the court;

5 (q) refrain from entering into a designated geographic
6 area except upon terms as the court finds appropriate. The
7 terms may include consideration of the purpose of the
8 entry, the time of day, other persons accompanying the
9 minor, and advance approval by a probation officer;

10 (r) refrain from having any contact, directly or
11 indirectly, with certain specified persons or particular
12 types of persons, including but not limited to members of
13 street gangs and drug users or dealers;

14 (r-5) undergo a medical or other procedure to have a
15 tattoo symbolizing allegiance to a street gang removed from
16 his or her body;

17 (s) refrain from having in his or her body the presence
18 of any illicit drug prohibited by the Cannabis Control Act,
19 the Illinois Controlled Substances Act, or the
20 Methamphetamine Control and Community Protection Act,
21 unless prescribed by a physician, and submit samples of his
22 or her blood or urine or both for tests to determine the
23 presence of any illicit drug; or

24 (t) comply with any other conditions as may be ordered
25 by the court.

26 (6) A minor whose case is continued under supervision under

1 subsection (5) shall be given a certificate setting forth the
2 conditions imposed by the court. Those conditions may be
3 reduced, enlarged, or modified by the court on motion of the
4 probation officer or on its own motion, or that of the State's
5 Attorney, or, at the request of the minor after notice and
6 hearing.

7 (7) If a petition is filed charging a violation of a
8 condition of the continuance under supervision, the court shall
9 conduct a hearing. If the court finds that a condition of
10 supervision has not been fulfilled, the court may proceed to
11 findings, adjudication, and disposition or adjudication and
12 disposition. The filing of a petition for violation of a
13 condition of the continuance under supervision shall toll the
14 period of continuance under supervision until the final
15 determination of the charge, and the term of the continuance
16 under supervision shall not run until the hearing and
17 disposition of the petition for violation; provided where the
18 petition alleges conduct that does not constitute a criminal
19 offense, the hearing must be held within 30 days of the filing
20 of the petition unless a delay shall continue the tolling of
21 the period of continuance under supervision for the period of
22 the delay.

23 (8) When a hearing in which a minor is alleged to be a
24 delinquent for reasons that include a violation of Section
25 21-1.3 of the Criminal Code of 1961 or the Criminal Code of
26 2012 is continued under this Section, the court shall, as a

1 condition of the continuance under supervision, require the
2 minor to perform community service for not less than 30 and not
3 more than 120 hours, if community service is available in the
4 jurisdiction. The community service shall include, but need not
5 be limited to, the cleanup and repair of the damage that was
6 caused by the alleged violation or similar damage to property
7 located in the municipality or county in which the alleged
8 violation occurred. The condition may be in addition to any
9 other condition.

10 (8.5) When a hearing in which a minor is alleged to be a
11 delinquent for reasons that include a violation of Section 3.02
12 or Section 3.03 of the Humane Care for Animals Act or paragraph
13 (d) of subsection (1) of Section 21-1 of the Criminal Code of
14 1961 or paragraph (4) of subsection (a) of Section 21-1 or the
15 Criminal Code of 2012 is continued under this Section, the
16 court shall, as a condition of the continuance under
17 supervision, require the minor to undergo medical or
18 psychiatric treatment rendered by a psychiatrist or
19 psychological treatment rendered by a clinical psychologist.
20 The condition may be in addition to any other condition.

21 (9) When a hearing in which a minor is alleged to be a
22 delinquent is continued under this Section, the court, before
23 continuing the case, shall make a finding whether the offense
24 alleged to have been committed either: (i) was related to or in
25 furtherance of the activities of an organized gang or was
26 motivated by the minor's membership in or allegiance to an

1 organized gang, or (ii) is a violation of paragraph (13) of
2 subsection (a) of Section 12-2 or paragraph (2) of subsection
3 (c) of Section 12-2 of the Criminal Code of 1961 or the
4 Criminal Code of 2012, a violation of any Section of Article 24
5 of the Criminal Code of 1961 or the Criminal Code of 2012, or a
6 violation of any statute that involved the unlawful use of a
7 firearm. If the court determines the question in the
8 affirmative the court shall, as a condition of the continuance
9 under supervision and as part of or in addition to any other
10 condition of the supervision, require the minor to perform
11 community service for not less than 30 hours, provided that
12 community service is available in the jurisdiction and is
13 funded and approved by the county board of the county where the
14 offense was committed. The community service shall include, but
15 need not be limited to, the cleanup and repair of any damage
16 caused by an alleged violation of Section 21-1.3 of the
17 Criminal Code of 1961 or the Criminal Code of 2012 and similar
18 damage to property located in the municipality or county in
19 which the alleged violation occurred. When possible and
20 reasonable, the community service shall be performed in the
21 minor's neighborhood. For the purposes of this Section,
22 "organized gang" has the meaning ascribed to it in Section 10
23 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

24 (10) The court shall impose upon a minor placed on
25 supervision, as a condition of the supervision, a fee of \$50
26 for each month of supervision ordered by the court, unless

1 after determining the inability of the minor placed on
2 supervision to pay the fee, the court assesses a lesser amount.
3 The court may not impose the fee on a minor who is placed in the
4 guardianship or custody of the Department of Children and
5 Family Services under this Act while the minor is in placement.
6 The fee shall be imposed only upon a minor who is actively
7 supervised by the probation and court services department. A
8 court may order the parent, guardian, or legal custodian of the
9 minor to pay some or all of the fee on the minor's behalf.

10 (11) (Blank). ~~If a minor is placed on supervision for a~~
11 ~~violation of subsection (a-7) of Section 1 of the Prevention of~~
12 ~~Tobacco Use by Minors Act, the court may, in its discretion,~~
13 ~~and upon recommendation by the State's Attorney, order that~~
14 ~~minor and his or her parents or legal guardian to attend a~~
15 ~~smoker's education or youth diversion program as defined in~~
16 ~~that Act if that program is available in the jurisdiction where~~
17 ~~the offender resides. Attendance at a smoker's education or~~
18 ~~youth diversion program shall be time credited against any~~
19 ~~community service time imposed for any first violation of~~
20 ~~subsection (a-7) of Section 1 of that Act. In addition to any~~
21 ~~other penalty that the court may impose for a violation of~~
22 ~~subsection (a-7) of Section 1 of that Act, the court, upon~~
23 ~~request by the State's Attorney, may in its discretion require~~
24 ~~the offender to remit a fee for his or her attendance at a~~
25 ~~smoker's education or youth diversion program.~~

26 ~~For purposes of this Section, "smoker's education program"~~

1 ~~er "youth diversion program" includes, but is not limited to, a~~
2 ~~seminar designed to educate a person on the physical and~~
3 ~~psychological effects of smoking tobacco products and the~~
4 ~~health consequences of smoking tobacco products that can be~~
5 ~~conducted with a locality's youth diversion program.~~

6 ~~In addition to any other penalty that the court may impose~~
7 ~~under this subsection (11):~~

8 ~~(a) If a minor violates subsection (a 7) of Section 1~~
9 ~~of the Prevention of Tobacco Use by Minors Act, the court~~
10 ~~may impose a sentence of 15 hours of community service or a~~
11 ~~fine of \$25 for a first violation.~~

12 ~~(b) A second violation by a minor of subsection (a 7)~~
13 ~~of Section 1 of that Act that occurs within 12 months after~~
14 ~~the first violation is punishable by a fine of \$50 and 25~~
15 ~~hours of community service.~~

16 ~~(c) A third or subsequent violation by a minor of~~
17 ~~subsection (a 7) of Section 1 of that Act that occurs~~
18 ~~within 12 months after the first violation is punishable by~~
19 ~~a \$100 fine and 30 hours of community service.~~

20 ~~(d) Any second or subsequent violation not within the~~
21 ~~12-month time period after the first violation is~~
22 ~~punishable as provided for a first violation.~~

23 (Source: P.A. 100-159, eff. 8-18-17; 100-759, eff. 1-1-19.)

24 (705 ILCS 405/5-710)

25 Sec. 5-710. Kinds of sentencing orders.

1 (1) The following kinds of sentencing orders may be made in
2 respect of wards of the court:

3 (a) Except as provided in Sections 5-805, 5-810, and
4 5-815, a minor who is found guilty under Section 5-620 may
5 be:

6 (i) put on probation or conditional discharge and
7 released to his or her parents, guardian or legal
8 custodian, provided, however, that any such minor who
9 is not committed to the Department of Juvenile Justice
10 under this subsection and who is found to be a
11 delinquent for an offense which is first degree murder,
12 a Class X felony, or a forcible felony shall be placed
13 on probation;

14 (ii) placed in accordance with Section 5-740, with
15 or without also being put on probation or conditional
16 discharge;

17 (iii) required to undergo a substance abuse
18 assessment conducted by a licensed provider and
19 participate in the indicated clinical level of care;

20 (iv) on and after the effective date of this
21 amendatory Act of the 98th General Assembly and before
22 January 1, 2017, placed in the guardianship of the
23 Department of Children and Family Services, but only if
24 the delinquent minor is under 16 years of age or,
25 pursuant to Article II of this Act, a minor for whom an
26 independent basis of abuse, neglect, or dependency

1 exists. On and after January 1, 2017, placed in the
2 guardianship of the Department of Children and Family
3 Services, but only if the delinquent minor is under 15
4 years of age or, pursuant to Article II of this Act, a
5 minor for whom an independent basis of abuse, neglect,
6 or dependency exists. An independent basis exists when
7 the allegations or adjudication of abuse, neglect, or
8 dependency do not arise from the same facts, incident,
9 or circumstances which give rise to a charge or
10 adjudication of delinquency;

11 (v) placed in detention for a period not to exceed
12 30 days, either as the exclusive order of disposition
13 or, where appropriate, in conjunction with any other
14 order of disposition issued under this paragraph,
15 provided that any such detention shall be in a juvenile
16 detention home and the minor so detained shall be 10
17 years of age or older. However, the 30-day limitation
18 may be extended by further order of the court for a
19 minor under age 15 committed to the Department of
20 Children and Family Services if the court finds that
21 the minor is a danger to himself or others. The minor
22 shall be given credit on the sentencing order of
23 detention for time spent in detention under Sections
24 5-501, 5-601, 5-710, or 5-720 of this Article as a
25 result of the offense for which the sentencing order
26 was imposed. The court may grant credit on a sentencing

1 order of detention entered under a violation of
2 probation or violation of conditional discharge under
3 Section 5-720 of this Article for time spent in
4 detention before the filing of the petition alleging
5 the violation. A minor shall not be deprived of credit
6 for time spent in detention before the filing of a
7 violation of probation or conditional discharge
8 alleging the same or related act or acts. The
9 limitation that the minor shall only be placed in a
10 juvenile detention home does not apply as follows:

11 Persons 18 years of age and older who have a
12 petition of delinquency filed against them may be
13 confined in an adult detention facility. In making a
14 determination whether to confine a person 18 years of
15 age or older who has a petition of delinquency filed
16 against the person, these factors, among other
17 matters, shall be considered:

18 (A) the age of the person;

19 (B) any previous delinquent or criminal
20 history of the person;

21 (C) any previous abuse or neglect history of
22 the person;

23 (D) any mental health history of the person;

24 and

25 (E) any educational history of the person;

26 (vi) ordered partially or completely emancipated

1 in accordance with the provisions of the Emancipation
2 of Minors Act;

3 (vii) subject to having his or her driver's license
4 or driving privileges suspended for such time as
5 determined by the court but only until he or she
6 attains 18 years of age;

7 (viii) put on probation or conditional discharge
8 and placed in detention under Section 3-6039 of the
9 Counties Code for a period not to exceed the period of
10 incarceration permitted by law for adults found guilty
11 of the same offense or offenses for which the minor was
12 adjudicated delinquent, and in any event no longer than
13 upon attainment of age 21; this subdivision (viii)
14 notwithstanding any contrary provision of the law;

15 (ix) ordered to undergo a medical or other
16 procedure to have a tattoo symbolizing allegiance to a
17 street gang removed from his or her body; or

18 (x) placed in electronic monitoring or home
19 detention under Part 7A of this Article.

20 (b) A minor found to be guilty may be committed to the
21 Department of Juvenile Justice under Section 5-750 if the
22 minor is at least 13 years and under 20 years of age,
23 provided that the commitment to the Department of Juvenile
24 Justice shall be made only if the minor was found guilty of
25 a felony offense or first degree murder. The court shall
26 include in the sentencing order any pre-custody credits the

1 minor is entitled to under Section 5-4.5-100 of the Unified
2 Code of Corrections. The time during which a minor is in
3 custody before being released upon the request of a parent,
4 guardian or legal custodian shall also be considered as
5 time spent in custody.

6 (c) When a minor is found to be guilty for an offense
7 which is a violation of the Illinois Controlled Substances
8 Act, the Cannabis Control Act, or the Methamphetamine
9 Control and Community Protection Act and made a ward of the
10 court, the court may enter a disposition order requiring
11 the minor to undergo assessment, counseling or treatment in
12 a substance use disorder treatment program approved by the
13 Department of Human Services.

14 (2) Any sentencing order other than commitment to the
15 Department of Juvenile Justice may provide for protective
16 supervision under Section 5-725 and may include an order of
17 protection under Section 5-730.

18 (3) Unless the sentencing order expressly so provides, it
19 does not operate to close proceedings on the pending petition,
20 but is subject to modification until final closing and
21 discharge of the proceedings under Section 5-750.

22 (4) In addition to any other sentence, the court may order
23 any minor found to be delinquent to make restitution, in
24 monetary or non-monetary form, under the terms and conditions
25 of Section 5-5-6 of the Unified Code of Corrections, except
26 that the "presentencing hearing" referred to in that Section

1 shall be the sentencing hearing for purposes of this Section.
2 The parent, guardian or legal custodian of the minor may be
3 ordered by the court to pay some or all of the restitution on
4 the minor's behalf, pursuant to the Parental Responsibility
5 Law. The State's Attorney is authorized to act on behalf of any
6 victim in seeking restitution in proceedings under this
7 Section, up to the maximum amount allowed in Section 5 of the
8 Parental Responsibility Law.

9 (5) Any sentencing order where the minor is committed or
10 placed in accordance with Section 5-740 shall provide for the
11 parents or guardian of the estate of the minor to pay to the
12 legal custodian or guardian of the person of the minor such
13 sums as are determined by the custodian or guardian of the
14 person of the minor as necessary for the minor's needs. The
15 payments may not exceed the maximum amounts provided for by
16 Section 9.1 of the Children and Family Services Act.

17 (6) Whenever the sentencing order requires the minor to
18 attend school or participate in a program of training, the
19 truant officer or designated school official shall regularly
20 report to the court if the minor is a chronic or habitual
21 truant under Section 26-2a of the School Code. Notwithstanding
22 any other provision of this Act, in instances in which
23 educational services are to be provided to a minor in a
24 residential facility where the minor has been placed by the
25 court, costs incurred in the provision of those educational
26 services must be allocated based on the requirements of the

1 School Code.

2 (7) In no event shall a guilty minor be committed to the
3 Department of Juvenile Justice for a period of time in excess
4 of that period for which an adult could be committed for the
5 same act. The court shall include in the sentencing order a
6 limitation on the period of confinement not to exceed the
7 maximum period of imprisonment the court could impose under
8 Article V of the Unified Code of Corrections.

9 (7.5) In no event shall a guilty minor be committed to the
10 Department of Juvenile Justice or placed in detention when the
11 act for which the minor was adjudicated delinquent would not be
12 illegal if committed by an adult.

13 (7.6) In no event shall a guilty minor be committed to the
14 Department of Juvenile Justice for an offense which is a Class
15 4 felony under Section 19-4 (criminal trespass to a residence),
16 21-1 (criminal damage to property), 21-1.01 (criminal damage to
17 government supported property), 21-1.3 (criminal defacement of
18 property), 26-1 (disorderly conduct), or 31-4 (obstructing
19 justice) of the Criminal Code of 2012.

20 (7.75) In no event shall a guilty minor be committed to the
21 Department of Juvenile Justice for an offense that is a Class 3
22 or Class 4 felony violation of the Illinois Controlled
23 Substances Act unless the commitment occurs upon a third or
24 subsequent judicial finding of a violation of probation for
25 substantial noncompliance with court-ordered treatment or
26 programming.

1 (8) A minor found to be guilty for reasons that include a
2 violation of Section 21-1.3 of the Criminal Code of 1961 or the
3 Criminal Code of 2012 shall be ordered to perform community
4 service for not less than 30 and not more than 120 hours, if
5 community service is available in the jurisdiction. The
6 community service shall include, but need not be limited to,
7 the cleanup and repair of the damage that was caused by the
8 violation or similar damage to property located in the
9 municipality or county in which the violation occurred. The
10 order may be in addition to any other order authorized by this
11 Section.

12 (8.5) A minor found to be guilty for reasons that include a
13 violation of Section 3.02 or Section 3.03 of the Humane Care
14 for Animals Act or paragraph (d) of subsection (1) of Section
15 21-1 of the Criminal Code of 1961 or paragraph (4) of
16 subsection (a) of Section 21-1 of the Criminal Code of 2012
17 shall be ordered to undergo medical or psychiatric treatment
18 rendered by a psychiatrist or psychological treatment rendered
19 by a clinical psychologist. The order may be in addition to any
20 other order authorized by this Section.

21 (9) In addition to any other sentencing order, the court
22 shall order any minor found to be guilty for an act which would
23 constitute, predatory criminal sexual assault of a child,
24 aggravated criminal sexual assault, criminal sexual assault,
25 aggravated criminal sexual abuse, or criminal sexual abuse if
26 committed by an adult to undergo medical testing to determine

1 whether the defendant has any sexually transmissible disease
2 including a test for infection with human immunodeficiency
3 virus (HIV) or any other identified causative agency of
4 acquired immunodeficiency syndrome (AIDS). Any medical test
5 shall be performed only by appropriately licensed medical
6 practitioners and may include an analysis of any bodily fluids
7 as well as an examination of the minor's person. Except as
8 otherwise provided by law, the results of the test shall be
9 kept strictly confidential by all medical personnel involved in
10 the testing and must be personally delivered in a sealed
11 envelope to the judge of the court in which the sentencing
12 order was entered for the judge's inspection in camera. Acting
13 in accordance with the best interests of the victim and the
14 public, the judge shall have the discretion to determine to
15 whom the results of the testing may be revealed. The court
16 shall notify the minor of the results of the test for infection
17 with the human immunodeficiency virus (HIV). The court shall
18 also notify the victim if requested by the victim, and if the
19 victim is under the age of 15 and if requested by the victim's
20 parents or legal guardian, the court shall notify the victim's
21 parents or the legal guardian, of the results of the test for
22 infection with the human immunodeficiency virus (HIV). The
23 court shall provide information on the availability of HIV
24 testing and counseling at the Department of Public Health
25 facilities to all parties to whom the results of the testing
26 are revealed. The court shall order that the cost of any test

1 shall be paid by the county and may be taxed as costs against
2 the minor.

3 (10) When a court finds a minor to be guilty the court
4 shall, before entering a sentencing order under this Section,
5 make a finding whether the offense committed either: (a) was
6 related to or in furtherance of the criminal activities of an
7 organized gang or was motivated by the minor's membership in or
8 allegiance to an organized gang, or (b) involved a violation of
9 subsection (a) of Section 12-7.1 of the Criminal Code of 1961
10 or the Criminal Code of 2012, a violation of any Section of
11 Article 24 of the Criminal Code of 1961 or the Criminal Code of
12 2012, or a violation of any statute that involved the wrongful
13 use of a firearm. If the court determines the question in the
14 affirmative, and the court does not commit the minor to the
15 Department of Juvenile Justice, the court shall order the minor
16 to perform community service for not less than 30 hours nor
17 more than 120 hours, provided that community service is
18 available in the jurisdiction and is funded and approved by the
19 county board of the county where the offense was committed. The
20 community service shall include, but need not be limited to,
21 the cleanup and repair of any damage caused by a violation of
22 Section 21-1.3 of the Criminal Code of 1961 or the Criminal
23 Code of 2012 and similar damage to property located in the
24 municipality or county in which the violation occurred. When
25 possible and reasonable, the community service shall be
26 performed in the minor's neighborhood. This order shall be in

1 addition to any other order authorized by this Section except
2 for an order to place the minor in the custody of the
3 Department of Juvenile Justice. For the purposes of this
4 Section, "organized gang" has the meaning ascribed to it in
5 Section 10 of the Illinois Streetgang Terrorism Omnibus
6 Prevention Act.

7 (11) If the court determines that the offense was committed
8 in furtherance of the criminal activities of an organized gang,
9 as provided in subsection (10), and that the offense involved
10 the operation or use of a motor vehicle or the use of a
11 driver's license or permit, the court shall notify the
12 Secretary of State of that determination and of the period for
13 which the minor shall be denied driving privileges. If, at the
14 time of the determination, the minor does not hold a driver's
15 license or permit, the court shall provide that the minor shall
16 not be issued a driver's license or permit until his or her
17 18th birthday. If the minor holds a driver's license or permit
18 at the time of the determination, the court shall provide that
19 the minor's driver's license or permit shall be revoked until
20 his or her 21st birthday, or until a later date or occurrence
21 determined by the court. If the minor holds a driver's license
22 at the time of the determination, the court may direct the
23 Secretary of State to issue the minor a judicial driving
24 permit, also known as a JDP. The JDP shall be subject to the
25 same terms as a JDP issued under Section 6-206.1 of the
26 Illinois Vehicle Code, except that the court may direct that

1 the JDP be effective immediately.

2 (12) (Blank). ~~If a minor is found to be guilty of a~~
3 ~~violation of subsection (a-7) of Section 1 of the Prevention of~~
4 ~~Tobacco Use by Minors Act, the court may, in its discretion,~~
5 ~~and upon recommendation by the State's Attorney, order that~~
6 ~~minor and his or her parents or legal guardian to attend a~~
7 ~~smoker's education or youth diversion program as defined in~~
8 ~~that Act if that program is available in the jurisdiction where~~
9 ~~the offender resides. Attendance at a smoker's education or~~
10 ~~youth diversion program shall be time credited against any~~
11 ~~community service time imposed for any first violation of~~
12 ~~subsection (a-7) of Section 1 of that Act. In addition to any~~
13 ~~other penalty that the court may impose for a violation of~~
14 ~~subsection (a-7) of Section 1 of that Act, the court, upon~~
15 ~~request by the State's Attorney, may in its discretion require~~
16 ~~the offender to remit a fee for his or her attendance at a~~
17 ~~smoker's education or youth diversion program.~~

18 ~~For purposes of this Section, "smoker's education program"~~
19 ~~or "youth diversion program" includes, but is not limited to, a~~
20 ~~seminar designed to educate a person on the physical and~~
21 ~~psychological effects of smoking tobacco products and the~~
22 ~~health consequences of smoking tobacco products that can be~~
23 ~~conducted with a locality's youth diversion program.~~

24 ~~In addition to any other penalty that the court may impose~~
25 ~~under this subsection (12):~~

26 ~~(a) If a minor violates subsection (a-7) of Section 1~~

1 ~~of the Prevention of Tobacco Use by Minors Act, the court~~
2 ~~may impose a sentence of 15 hours of community service or a~~
3 ~~fine of \$25 for a first violation.~~

4 ~~(b) A second violation by a minor of subsection (a 7)~~
5 ~~of Section 1 of that Act that occurs within 12 months after~~
6 ~~the first violation is punishable by a fine of \$50 and 25~~
7 ~~hours of community service.~~

8 ~~(c) A third or subsequent violation by a minor of~~
9 ~~subsection (a 7) of Section 1 of that Act that occurs~~
10 ~~within 12 months after the first violation is punishable by~~
11 ~~a \$100 fine and 30 hours of community service.~~

12 ~~(d) Any second or subsequent violation not within the~~
13 ~~12-month time period after the first violation is~~
14 ~~punishable as provided for a first violation.~~

15 (Source: P.A. 99-268, eff. 1-1-16; 99-628, eff. 1-1-17; 99-879,
16 eff. 1-1-17; 100-201, eff. 8-18-17; 100-431, eff. 8-25-17;
17 100-759, eff. 1-1-19.)

18 Section 25. The Prevention of Tobacco Use by Minors and
19 Sale and Distribution of Tobacco Products Act is amended by
20 changing the title of the Act and Sections 0.01, 1, and 2 and
21 by adding Section 1.1 as follows:

22 (720 ILCS 675/Act title)

23 An Act concerning tobacco products, electronic cigarettes,
24 and alternative nicotine products ~~to prohibit minors from~~

1 ~~buying, selling, or possessing tobacco in any of its forms, to~~
2 ~~prohibit selling, giving or furnishing tobacco, in any of its~~
3 ~~forms, to minors, and to prohibit the distribution of tobacco~~
4 ~~samples and providing penalties therefor.~~

5 (720 ILCS 675/0.01) (from Ch. 23, par. 2356.9)

6 Sec. 0.01. Short title. This Act may be cited as the
7 Cigarette, Electronic Cigarette, and Alternative Nicotine
8 Product Prevention of Tobacco Use by Minors and Sale and
9 Distribution of Tobacco Products Act.

10 (Source: P.A. 96-179, eff. 8-10-09; 96-446, eff. 1-1-10;
11 96-1000, eff. 7-2-10.)

12 (720 ILCS 675/1) (from Ch. 23, par. 2357)

13 Sec. 1. Tobacco products, electronic cigarettes, and
14 alternative nicotine products ~~Prohibition on sale to and~~
15 ~~possession of tobacco by minors; prohibition on the~~
16 ~~distribution of tobacco samples to any person; use of~~
17 ~~identification cards; vending machines; lunch wagons;~~
18 ~~out of package sales.~~

19 (a) Except as provided in Section 1.1, no person under 21
20 years of age shall buy any tobacco product, electronic
21 cigarette, or alternative nicotine product. No person shall
22 sell, buy for, distribute samples of, or furnish any tobacco
23 product, electronic cigarette, or alternative nicotine product
24 to any person under 21 years of age. No minor under 18 years of

1 ~~age shall buy any tobacco product. No person shall sell, buy~~
2 ~~for, distribute samples of or furnish any tobacco product to~~
3 ~~any minor under 18 years of age.~~

4 (a-5) No person under 16 years of age may sell any tobacco
5 product, electronic cigarette, or alternative nicotine product
6 at a retail establishment selling tobacco products, electronic
7 cigarettes, or alternative nicotine products. ~~No minor under 16~~
8 ~~years of age may sell any tobacco product at a retail~~
9 ~~establishment selling tobacco products.~~ This subsection does
10 not apply to a sales clerk in a family-owned business which can
11 prove that the sales clerk is in fact a son or daughter of the
12 owner.

13 (a-5.1) Except as provided in Section 1.1, before selling,
14 offering for sale, giving, or furnishing a tobacco product,
15 electronic cigarette, or alternative nicotine product to
16 another person, the person selling, offering for sale, giving,
17 or furnishing the tobacco product, electronic cigarette, or
18 alternative nicotine product shall verify that the person is at
19 least 21 years of age by:

20 (1) examining from any person that appears to be under
21 30 years of age a government-issued photographic
22 identification that establishes the person to be 21 years
23 of age or older; or

24 (2) for sales of tobacco products, electronic
25 cigarettes, or alternative nicotine products made through
26 the Internet or other remote sales methods, performing an

1 age verification through an independent, third party age
2 verification service that compares information available
3 from public records to the personal information entered by
4 the person during the ordering process that establishes the
5 person is 21 years of age or older.

6 (a-6) No person under 21 years of age in the furtherance or
7 facilitation of obtaining any tobacco product, electronic
8 cigarette, or alternative nicotine product shall display or use
9 a false or forged identification card or transfer, alter, or
10 deface an identification card. ~~No minor under 18 years of age~~
11 ~~in the furtherance or facilitation of obtaining any tobacco~~
12 ~~product shall display or use a false or forged identification~~
13 ~~card or transfer, alter, or deface an identification card.~~

14 (a-7) (Blank). ~~No minor under 18 years of age shall~~
15 ~~possess any cigar, cigarette, smokeless tobacco, or tobacco in~~
16 ~~any of its forms.~~

17 (a-8) A person shall not distribute without charge samples
18 of any tobacco product to any other person, regardless of age,
19 except for smokeless tobacco in an adult-only facility.†

20 ~~(1) within a retail establishment selling tobacco~~
21 ~~products, unless the retailer has verified the purchaser's~~
22 ~~age with a government issued identification;~~

23 ~~(2) from a lunch wagon; or~~

24 ~~(3) on a public way as a promotion or advertisement of~~
25 ~~a tobacco manufacturer or tobacco product.~~

26 This subsection (a-8) does not apply to the distribution of

1 a tobacco product, electronic cigarette, or alternative
2 nicotine product sample in any adult-only facility.

3 (a-9) For the purpose of this Section:

4 "Adult-only facility" means a facility or restricted
5 area (whether open-air or enclosed) where the operator
6 ensures or has a reasonable basis to believe (such as by
7 checking identification as required under State law, or by
8 checking the identification of any person appearing to be
9 under the age of 30 ~~27~~) that no person under legal age is
10 present. A facility or restricted area need not be
11 permanently restricted to persons under 21 years of legal
12 age to constitute an adult-only facility, provided that the
13 operator ensures or has a reasonable basis to believe that
14 no person under 21 years of legal age is present during the
15 event or time period in question.

16 "Alternative nicotine product" means a product or
17 device not consisting of or containing tobacco that
18 provides for the ingestion into the body of nicotine,
19 whether by chewing, smoking, absorbing, dissolving,
20 inhaling, snorting, sniffing, or by any other means.

21 "Alternative nicotine product" does not include:
22 cigarettes as defined in Section 1 of the Cigarette Tax Act
23 and tobacco products as defined in Section 10-5 of the
24 Tobacco Products Tax Act of 1995; tobacco product and
25 electronic cigarette as defined in this Section; or any
26 product approved by the United States Food and Drug

1 Administration for sale as a tobacco cessation product, as
2 a tobacco dependence product, or for other medical
3 purposes, and is being marketed and sold solely for that
4 approved purpose.

5 "Electronic cigarette" means:

6 (1) any device that employs a battery or other
7 mechanism to heat a solution or substance to produce a
8 vapor or aerosol intended for inhalation;

9 (2) any cartridge or container of a solution or
10 substance intended to be used with or in the device or
11 to refill the device; or

12 (3) any solution or substance, whether or not it
13 contains nicotine intended for use in the device.

14 "Electronic cigarette" includes, but is not limited
15 to, any electronic nicotine delivery system,
16 electronic cigar, electronic cigarillo, electronic
17 pipe, electronic hookah, vape pen, or similar product
18 or device, and any components or parts that can be used
19 to build the product or device. "Electronic cigarette"
20 does not include: cigarettes as defined in Section 1 of
21 the Cigarette Tax Act and tobacco products as defined
22 in Section 10-5 of the Tobacco Products Tax Act of
23 1995; tobacco product and alternative nicotine product
24 as defined in this Section; any product approved by the
25 United States Food and Drug Administration for sale as
26 a tobacco cessation product, as a tobacco dependence

1 product, or for other medical purposes, and is being
2 marketed and sold solely for that approved purpose; any
3 asthma inhaler prescribed by a physician for that
4 condition and is being marketed and sold solely for
5 that approved purpose; or any therapeutic product
6 approved for use under the Compassionate Use of Medical
7 Cannabis Pilot Program Act.

8 "Lunch wagon" means a mobile vehicle designed and
9 constructed to transport food and from which food is sold
10 to the general public.

11 "Nicotine" means any form of the chemical nicotine,
12 including any salt or complex, regardless of whether the
13 chemical is naturally or synthetically derived.

14 ~~"Smokeless tobacco" means any tobacco products that~~
15 ~~are suitable for dipping or chewing.~~

16 "Tobacco product" means any product containing or made
17 from tobacco that is intended for human consumption,
18 whether smoked, heated, chewed, absorbed, dissolved,
19 inhaled, snorted, sniffed, or ingested by any other means,
20 including, but not limited to, cigarettes, cigars, little
21 cigars, chewing tobacco, pipe tobacco, snuff, snus, and any
22 other smokeless tobacco product which contains tobacco
23 that is finely cut, ground, powdered, or leaf and intended
24 to be placed in the oral cavity. "Tobacco product" includes
25 any component, part, or accessory of a tobacco product,
26 whether or not sold separately. "Tobacco product" does not

1 include: an electronic cigarette and alternative nicotine
2 product as defined in this Section; or any product that has
3 been approved by the United States Food and Drug
4 Administration for sale as a tobacco cessation product, as
5 a tobacco dependence product, or for other medical
6 purposes, and is being marketed and sold solely for that
7 approved purpose ~~means any cigar, cigarette, smokeless~~
8 ~~tobacco, or tobacco in any of its forms.~~

9 (b) Tobacco products, electronic cigarettes, and
10 alternative nicotine products ~~listed in this Section~~ may be
11 sold through a vending machine only if such tobacco products,
12 electronic cigarettes, and alternative nicotine products are
13 not placed together with any non-tobacco product, other than
14 matches, in the vending machine and the vending machine is in
15 any of the following locations:

16 (1) (Blank).

17 (2) Places to which persons ~~minors~~ under 21 ~~18~~ years of
18 age are not permitted access at any time.

19 (3) Places where alcoholic beverages are sold and
20 consumed on the premises and vending machine operation is
21 under the direct supervision of the owner or manager.

22 (4) (Blank).

23 (5) (Blank). ~~Places where the vending machine can only~~
24 ~~be operated by the owner or an employee over age 18 either~~
25 ~~directly or through a remote control device if the device~~
26 ~~is inaccessible to all customers.~~

1 (c) (Blank).

2 (d) The sale or distribution by any person of a tobacco
3 product as defined in this Section, including but not limited
4 to a single or loose cigarette, that is not contained within a
5 sealed container, pack, or package as provided by the
6 manufacturer, which container, pack, or package bears the
7 health warning required by federal law, is prohibited.

8 (e) It is not a violation of this Act for a person under 21
9 years of age to purchase a tobacco product, electronic
10 cigarette, or alternative nicotine product if the person under
11 the age of 21 purchases or is given the tobacco product,
12 electronic cigarette, or alternative nicotine product in any of
13 its forms from a retail seller of tobacco products, electronic
14 cigarettes, or alternative nicotine products or an employee of
15 the retail seller pursuant to a plan or action to investigate,
16 patrol, or otherwise conduct a "sting operation" or enforcement
17 action against a retail seller of tobacco products, electronic
18 cigarettes, or alternative nicotine products or a person
19 employed by the retail seller of tobacco products, electronic
20 cigarettes, or alternative nicotine products or on any premises
21 authorized to sell tobacco products, electronic cigarettes, or
22 alternative nicotine products to determine if tobacco
23 products, electronic cigarettes, or alternative nicotine
24 products are being sold or given to persons under 21 years of
25 age if the "sting operation" or enforcement action is approved
26 by, conducted by, or conducted on behalf of the Department of

1 State Police, the county sheriff, a municipal police
2 department, the Department of Revenue, the Department of Public
3 Health, or a local health department. ~~It is not a violation of~~
4 ~~this Act for a person under 18 years of age to purchase or~~
5 ~~possess a cigar, cigarette, smokeless tobacco or tobacco in any~~
6 ~~of its forms if the person under the age of 18 purchases or is~~
7 ~~given the cigar, cigarette, smokeless tobacco or tobacco in any~~
8 ~~of its forms from a retail seller of tobacco products or an~~
9 ~~employee of the retail seller pursuant to a plan or action to~~
10 ~~investigate, patrol, or otherwise conduct a "sting operation"~~
11 ~~or enforcement action against a retail seller of tobacco~~
12 ~~products or a person employed by the retail seller of tobacco~~
13 ~~products or on any premises authorized to sell tobacco products~~
14 ~~to determine if tobacco products are being sold or given to~~
15 ~~persons under 18 years of age if the "sting operation" or~~
16 ~~enforcement action is approved by, conducted by, or conducted~~
17 ~~on behalf of the Department of State Police, the county~~
18 ~~sheriff, a municipal police department, the Department of~~
19 ~~Revenue, the Department of Public Health, or a local health~~
20 ~~department.~~ The results of any sting operation or enforcement
21 action, including the name of the clerk, shall be provided to
22 the retail seller within 7 business days.

23 (Source: P.A. 98-1055, eff. 1-1-16.)

24 (720 ILCS 675/1.1 new)

25 Sec. 1.1. License; educational program.

1 (a) Notwithstanding any provision of law to the contrary,
2 the Secretary of State shall issue a smoking license to a
3 person who: (1) is at least 18 years of age but under 21 years
4 of age; (2) has completed the 8-hour online educational program
5 regarding the dangers and consequences of smoking developed
6 under subsection (b) as verified by the Department of Public
7 Health; and (3) has paid a \$50 fee to the Secretary of State.
8 The license shall be valid for one year and may be renewed for
9 additional one-year periods upon payment of a \$50 renewal fee
10 to the Secretary of State. The license shall permit the
11 licensee to buy, possess, and use tobacco products, electronic
12 cigarettes, and alternative nicotine products. The smoking
13 license does not authorize purchases of tobacco products,
14 electronic cigarettes, and alternative nicotine products from
15 a vending machine. The smoking license does not authorize
16 receipt of tobacco products, electronic cigarettes, and
17 alternative nicotine products by shipment under the Prevention
18 of Cigarette Sales to Persons under 21 Years of Age Act. The
19 smoking license does not authorize the purchase, possession, or
20 use of smoking herbs or tobacco accessories as defined in the
21 Tobacco Accessories and Smoking Herbs Control Act.

22 (b) The Department of Public Health, in cooperation with
23 the Illinois Community College Board, shall develop an 8-hour
24 online educational program regarding the dangers and
25 consequences of smoking. The program shall be made available on
26 the Department's website and may be viewed free of charge by

1 any person who is at least 18 years of age but under 21 years of
2 age. If the person completes the program and receives a score
3 of at least 75% on an examination regarding the subjects
4 covered in the program, the Department shall verify to the
5 Secretary of State that the person has completed the program.

6 (c) A seller may sell tobacco products, electronic
7 cigarettes, and alternative nicotine products to a person with
8 a smoking license if the person presents the smoking license
9 together with the identification required under Section 1.

10 (d) Notwithstanding any provision of law to the contrary, a
11 penalty of \$500 shall be imposed against a person who is at
12 least 18 years of age but under 21 years of age and purchases
13 or attempts to purchase a tobacco product, electronic
14 cigarette, or alternative nicotine product. The penalty shall
15 be waived if the person completes the program developed under
16 subsection (b) as verified by the Department of Public Health.

17 (720 ILCS 675/2) (from Ch. 23, par. 2358)

18 Sec. 2. Penalties.

19 (a) Except as provided in Section 1.1, any ~~Any~~ person who
20 violates subsection (a), ~~or~~ (a-5), (a-5.1), (a-8), (b), or (d)
21 of Section 1 ~~or subsection (b) or (c) of Section 1.5~~ of this
22 Act is guilty of a petty offense. For the first offense in a
23 24-month period, the person shall be fined \$200 if his or her
24 employer has a training program that facilitates compliance
25 with minimum-age tobacco laws. For the second offense in a

1 24-month period, the person shall be fined \$400 if his or her
2 employer has a training program that facilitates compliance
3 with minimum-age tobacco laws. For the third offense in a
4 24-month period, the person shall be fined \$600 if his or her
5 employer has a training program that facilitates compliance
6 with minimum-age tobacco laws. For the fourth or subsequent
7 offense in a 24-month period, the person shall be fined \$800 if
8 his or her employer has a training program that facilitates
9 compliance with minimum-age tobacco laws. For the purposes of
10 this subsection, the 24-month period shall begin with the
11 person's first violation of the Act. The penalties in this
12 subsection are in addition to any other penalties prescribed
13 under the Cigarette Tax Act and the Tobacco Products Tax Act of
14 1995.

15 (a-5) Any retailer who violates subsection (a) ~~or~~ (a-5) ~~or~~
16 (a-5.1), (a-8), (b), or (d) of Section 1 ~~or subsection (b) or~~
17 ~~(c) of Section 1.5~~ of this Act is guilty of a petty offense.
18 For the first offense in a 24-month period, the retailer shall
19 be fined \$200 if it does not have a training program that
20 facilitates compliance with minimum-age tobacco laws. For the
21 second offense in a 24-month period, the retailer shall be
22 fined \$400 if it does not have a training program that
23 facilitates compliance with minimum-age tobacco laws. For the
24 third offense within a 24-month period, the retailer shall be
25 fined \$600 if it does not have a training program that
26 facilitates compliance with minimum-age tobacco laws. For the

1 fourth or subsequent offense in a 24-month period, the retailer
2 shall be fined \$800 if it does not have a training program that
3 facilitates compliance with minimum-age tobacco laws. For the
4 purposes of this subsection, the 24-month period shall begin
5 with the person's first violation of the Act. The penalties in
6 this subsection are in addition to any other penalties
7 prescribed under the Cigarette Tax Act and the Tobacco Products
8 Tax Act of 1995.

9 (a-6) For the purpose of this Act, a training program that
10 facilitates compliance with minimum-age tobacco laws must
11 include at least the following elements: (i) it must explain
12 that only individuals displaying valid identification
13 demonstrating that they are 21 ~~18~~ years of age or older shall
14 be eligible to purchase ~~cigarettes or~~ tobacco products,
15 electronic cigarettes, or alternative nicotine products ~~and~~
16 (ii) it must explain where a clerk can check identification for
17 a date of birth; and (iii) it must explain Section 1.1 of this
18 Act and provide advice to assist in ascertaining the
19 authenticity of smoking licenses issued under this Act. The
20 training may be conducted electronically. Each retailer that
21 has a training program shall require each employee who
22 completes the training program to sign a form attesting that
23 the employee has received and completed tobacco training. The
24 form shall be kept in the employee's file and may be used to
25 provide proof of training.

26 (b) (Blank). ~~If a minor violates subsection (a 7) of~~

1 ~~Section 1 or subsection (d) of Section 1.5, he or she is guilty~~
2 ~~of a petty offense and the court may impose a sentence of 25~~
3 ~~hours of community service and a fine of \$50 for a first~~
4 ~~violation.~~ If a person under 21 years of age ~~minor~~ violates
5 subsection (a-6) of Section 1, he or she is guilty of a Class A
6 misdemeanor.

7 (c) (Blank). ~~A second violation by a minor of subsection~~
8 ~~(a 7) of Section 1 or subsection (d) of Section 1.5 that occurs~~
9 ~~within 12 months after the first violation is punishable by a~~
10 ~~fine of \$75 and 50 hours of community service.~~

11 (d) (Blank). ~~A third or subsequent violation by a minor of~~
12 ~~subsection (a 7) of Section 1 or subsection (d) of Section 1.5~~
13 ~~that occurs within 12 months after the first violation is~~
14 ~~punishable by a \$200 fine and 50 hours of community service.~~

15 (e) (Blank). ~~Any second or subsequent violation not within~~
16 ~~the 12 month time period after the first violation is~~
17 ~~punishable as provided for a first violation.~~

18 (f) (Blank). ~~If a minor is convicted of or placed on~~
19 ~~supervision for a violation of subsection (a 6) or (a 7) of~~
20 ~~Section 1 or subsection (d) of Section 1.5, the court may, in~~
21 ~~its discretion, and upon recommendation by the State's~~
22 ~~Attorney, order that minor and his or her parents or legal~~
23 ~~guardian to attend a smoker's education or youth diversion~~
24 ~~program if that program is available in the jurisdiction where~~
25 ~~the offender resides. Attendance at a smoker's education or~~
26 ~~youth diversion program shall be time credited against any~~

1 ~~community service time imposed for any first violation of~~
2 ~~subsection (a-7) of Section 1. In addition to any other penalty~~
3 ~~that the court may impose for a violation of subsection (a-7)~~
4 ~~of Section 1 or subsection (d) of Section 1.5, the court, upon~~
5 ~~request by the State's Attorney, may in its discretion require~~
6 ~~the offender to remit a fee for his or her attendance at a~~
7 ~~smoker's education or youth diversion program.~~

8 (g) (Blank). ~~For purposes of this Section, "smoker's~~
9 ~~education program" or "youth diversion program" includes, but~~
10 ~~is not limited to, a seminar designed to educate a person on~~
11 ~~the physical and psychological effects of smoking tobacco~~
12 ~~products and alternative nicotine products and the health~~
13 ~~consequences of smoking tobacco products and alternative~~
14 ~~nicotine products that can be conducted with a locality's youth~~
15 ~~diversion program.~~

16 (h) All moneys collected as fines for violations of
17 subsection (a), (a-5), (a-5.1), (a-6), (a-8), (b), or (d) or
18 (a-7) of Section 1 and ~~subsection (b), (c), or (d) of Section~~
19 ~~1.5~~ shall be distributed in the following manner:

20 (1) one-half of each fine shall be distributed to the
21 unit of local government or other entity that successfully
22 prosecuted the offender; and

23 (2) one-half shall be remitted to the State to be used
24 for enforcing this Act.

25 Any violation of subsection (a) or (a-5) of Section 1 ~~or~~
26 ~~subsection (b) or (c) of Section 1.5~~ shall be reported to the

1 Department of Revenue within 7 business days.

2 (Source: P.A. 99-192, eff. 1-1-16; 99-496, eff. 6-1-16;
3 100-201, eff. 8-18-17.)

4 (720 ILCS 675/1.5 rep.)

5 Section 30. The Prevention of Tobacco Use by Minors and
6 Sale and Distribution of Tobacco Products Act is amended by
7 repealing Section 1.5.

8 Section 35. The Display of Tobacco Products Act is amended
9 by changing Sections 5, 10, and 15 as follows:

10 (720 ILCS 677/5)

11 Sec. 5. Definitions. In this Act:

12 "Electronic cigarette" ~~"Alternative nicotine product"~~ has
13 the meaning ascribed to it in Section 1 1.5 of the Cigarette,
14 Electronic Cigarette, and Alternative Nicotine Product
15 ~~Prevention of Tobacco Use by Minors and Sale and Distribution~~
16 ~~of Tobacco Products Act.~~

17 "Alternative nicotine product" has the meaning ascribed to
18 it in Section 1 of the Cigarette, Electronic Cigarette, and
19 Alternative Nicotine Product Act.

20 "Line of sight" means visible to a cashier or other
21 employee.

22 "Age restricted area" means a signed designated area in a
23 retail establishment to which persons ~~minors~~ under 21 ~~18~~ years

1 of age are not permitted access unless accompanied by a parent
2 or legal guardian.

3 (Source: P.A. 98-983, eff. 1-1-15.)

4 (720 ILCS 677/10)

5 Sec. 10. Tobacco product displays. All single packs of
6 cigarettes, electronic cigarettes, and alternative nicotine
7 products must be sold from behind the counter or in an age
8 restricted area or in a sealed display case. Any other tobacco
9 products must be sold in line of sight.

10 The restrictions described in this Section do not apply to
11 a retail tobacco store that (i) derives at least 90% of its
12 revenue from tobacco and tobacco related products; (ii) does
13 not permit persons under the age of 21 ~~18~~ to enter the premises
14 unless accompanied by a parent or legal guardian; and (iii)
15 posts a sign on the main entrance way stating that persons
16 under the age of 21 ~~18~~ are prohibited from entering unless
17 accompanied by a parent or legal guardian.

18 (Source: P.A. 98-983, eff. 1-1-15.)

19 (720 ILCS 677/15)

20 Sec. 15. Vending machines. This Act does not prohibit the
21 sale of tobacco products, electronic cigarettes, or
22 alternative nicotine products from vending machines if the
23 locations ~~location~~ of the vending machines are in compliance
24 with the provisions of Section 1 of the Cigarette, Electronic

1 Cigarette, and Alternative Nicotine Product Prevention of
2 Tobacco Use by Minors and Sale and Distribution of Tobacco
3 Products Act.

4 (Source: P.A. 96-179, eff. 8-10-09; 96-446, eff. 1-1-10;
5 96-1000, eff. 7-2-10.)

6 Section 40. The Prevention of Cigarette Sales to Minors Act
7 is amended by changing Sections 1, 5, 6, 7, and 8 as follows:

8 (720 ILCS 678/1)

9 Sec. 1. Short title. This Act may be cited as the
10 Prevention of Cigarette Sales to Persons under 21 Years of Age
11 Minors Act.

12 (Source: P.A. 93-960, eff. 8-20-04.)

13 (720 ILCS 678/5)

14 Sec. 5. Unlawful shipment or transportation of cigarettes.

15 (a) It is unlawful for any person engaged in the business
16 of selling cigarettes to ship or cause to be shipped any
17 cigarettes unless the person shipping the cigarettes:

18 (1) is licensed as a distributor under either the
19 Cigarette Tax Act, or the Cigarette Use Tax Act; or
20 delivers the cigarettes to a distributor licensed under
21 either the Cigarette Tax Act or the Cigarette Use Tax Act;
22 or

23 (2) ships them to an export warehouse proprietor

1 pursuant to Chapter 52 of the Internal Revenue Code, or an
2 operator of a customs bonded warehouse pursuant to Section
3 1311 or 1555 of Title 19 of the United States Code.

4 For purposes of this subsection (a), a person is a licensed
5 distributor if the person's name appears on a list of licensed
6 distributors published by the Illinois Department of Revenue.
7 The term cigarette has the same meaning as defined in Section 1
8 of the Cigarette Tax Act and Section 1 of the Cigarette Use Tax
9 Act. Nothing in this Act prohibits a person licensed as a
10 distributor under the Cigarette Tax Act or the Cigarette Use
11 Tax Act from shipping or causing to be shipped any cigarettes
12 to a registered retailer under the Retailers' Occupation Tax
13 Act provided the cigarette tax or cigarette use tax has been
14 paid.

15 (b) A common or contract carrier may transport cigarettes
16 to any individual person in this State only if the carrier
17 reasonably believes such cigarettes have been received from a
18 person described in paragraph (a)(1). Common or contract
19 carriers may make deliveries of cigarettes to licensed
20 distributors described in paragraph (a)(1) of this Section.
21 Nothing in this subsection (b) shall be construed to prohibit a
22 person other than a common or contract carrier from
23 transporting not more than 1,000 cigarettes at any one time to
24 any person in this State.

25 (c) A common or contract carrier may not complete the
26 delivery of any cigarettes to persons other than those

1 described in paragraph (a)(1) of this Section without first
2 obtaining from the purchaser an official written
3 identification from any state or federal agency that displays
4 the person's date of birth or a birth certificate that includes
5 a reliable confirmation that the purchaser is at least 21 ~~18~~
6 years of age; that the cigarettes purchased are not intended
7 for consumption by an individual who is younger than 21 ~~18~~
8 years of age; and a written statement signed by the purchaser
9 that certifies the purchaser's address and that the purchaser
10 is at least 21 ~~18~~ years of age. The statement shall also
11 confirm: (1) that the purchaser understands that signing
12 another person's name to the certification is illegal; (2) that
13 the sale of cigarettes to individuals under 21 ~~18~~ years of age
14 is illegal; and (3) that the purchase of cigarettes by
15 individuals under 21 ~~18~~ years of age is illegal under the laws
16 of Illinois.

17 (d) When a person engaged in the business of selling
18 cigarettes ships or causes to be shipped any cigarettes to any
19 person in this State, other than in the cigarette
20 manufacturer's or tobacco products manufacturer's original
21 container or wrapping, the container or wrapping must be
22 plainly and visibly marked with the word "cigarettes".

23 (e) When a peace officer of this State or any duly
24 authorized officer or employee of the Illinois Department of
25 Public Health or Department of Revenue discovers any cigarettes
26 which have been or which are being shipped or transported in

1 violation of this Section, he or she shall seize and take
2 possession of the cigarettes, and the cigarettes shall be
3 subject to a forfeiture action pursuant to the procedures
4 provided under the Cigarette Tax Act or Cigarette Use Tax Act.

5 (Source: P.A. 95-1053, eff. 1-1-10; 96-782, eff. 1-1-10.)

6 (720 ILCS 678/6)

7 Sec. 6. Prevention of delivery sales to persons under 21
8 years of age ~~minors~~.

9 (a) No person shall make a delivery sale of cigarettes to
10 any individual who is under 21 ~~18~~ years of age.

11 (b) Each person accepting a purchase order for a delivery
12 sale shall comply with the provisions of this Act and all other
13 laws of this State generally applicable to sales of cigarettes
14 that occur entirely within this State.

15 (Source: P.A. 95-1053, eff. 1-1-10; 96-782, eff. 1-1-10.)

16 (720 ILCS 678/7)

17 Sec. 7. Age verification and shipping requirements to
18 prevent delivery sales to persons under 21 years of age ~~minors~~.

19 (a) No person, other than a delivery service, shall mail,
20 ship, or otherwise cause to be delivered a shipping package in
21 connection with a delivery sale unless the person:

22 (1) prior to the first delivery sale to the prospective
23 consumer, obtains from the prospective consumer a written
24 certification which includes a statement signed by the

1 prospective consumer that certifies:

2 (A) the prospective consumer's current address;

3 and

4 (B) that the prospective consumer is at least the
5 legal minimum age;

6 (2) informs, in writing, such prospective consumer
7 that:

8 (A) the signing of another person's name to the
9 certification described in this Section is illegal;

10 (B) sales of cigarettes to individuals under 21 ~~18~~
11 years of age are illegal;

12 (C) the purchase of cigarettes by individuals
13 under 21 ~~18~~ years of age is illegal; and

14 (D) the name and identity of the prospective
15 consumer may be reported to the state of the consumer's
16 current address under the Act of October 19, 1949 (15
17 U.S.C. § 375, et seq.), commonly known as the Jenkins
18 Act;

19 (3) makes a good faith effort to verify the date of
20 birth of the prospective consumer provided pursuant to this
21 Section by:

22 (A) comparing the date of birth against a
23 commercially available database; or

24 (B) obtaining a photocopy or other image of a
25 valid, government-issued identification stating the
26 date of birth or age of the prospective consumer;

1 (4) provides to the prospective consumer a notice that
2 meets the requirements of subsection (b);

3 (5) receives payment for the delivery sale from the
4 prospective consumer by a credit or debit card that has
5 been issued in such consumer's name, or by a check or other
6 written instrument in such consumer's name; and

7 (6) ensures that the shipping package is delivered to
8 the same address as is shown on the government-issued
9 identification or contained in the commercially available
10 database.

11 (b) The notice required under this Section shall include:

12 (1) a statement that cigarette sales to consumers below
13 21 ~~18~~ years of age are illegal;

14 (2) a statement that sales of cigarettes are restricted
15 to those consumers who provide verifiable proof of age in
16 accordance with subsection (a);

17 (3) a statement that cigarette sales are subject to tax
18 under Section 2 of the Cigarette Tax Act (35 ILCS 130/2),
19 Section 2 of the Cigarette Use Tax Act, and Section 3 of
20 the Use Tax Act and an explanation of how the correct tax
21 has been, or is to be, paid with respect to such delivery
22 sale.

23 (c) A statement meets the requirement of this Section if:

24 (1) the statement is clear and conspicuous;

25 (2) the statement is contained in a printed box set
26 apart from the other contents of the communication;

1 (3) the statement is printed in bold, capital letters;

2 (4) the statement is printed with a degree of color
3 contrast between the background and the printed statement
4 that is no less than the color contrast between the
5 background and the largest text used in the communication;
6 and

7 (5) for any printed material delivered by electronic
8 means, the statement appears at both the top and the bottom
9 of the electronic mail message or both the top and the
10 bottom of the Internet website homepage.

11 (d) Each person, other than a delivery service, who mails,
12 ships, or otherwise causes to be delivered a shipping package
13 in connection with a delivery sale shall:

14 (1) include as part of the shipping documents a clear
15 and conspicuous statement stating: "Cigarettes: Illinois
16 Law Prohibits Shipping to Individuals Under 21 ~~18~~ and
17 Requires the Payment of All Applicable Taxes";

18 (2) use a method of mailing, shipping, or delivery that
19 requires a signature before the shipping package is
20 released to the consumer; and

21 (3) ensure that the shipping package is not delivered
22 to any post office box.

23 (Source: P.A. 95-1053, eff. 1-1-10; 96-782, eff. 1-1-10.)

24 (720 ILCS 678/8)

25 Sec. 8. Registration and reporting requirements to prevent

1 delivery sales to persons under 21 years of age ~~minors~~.

2 (a) Not later than the 15th day of each month, each person
3 making a delivery sale during the previous calendar month shall
4 file a report with the Department containing the following
5 information:

6 (1) the seller's name, trade name, and the address of
7 such person's principal place of business and any other
8 place of business;

9 (2) the name and address of the consumer to whom such
10 delivery sale was made;

11 (3) the brand style or brand styles of the cigarettes
12 that were sold in such delivery sale;

13 (4) the quantity of cigarettes that were sold in such
14 delivery sale;

15 (5) an indication of whether or not the cigarettes sold
16 in the delivery sale bore a tax stamp evidencing payment of
17 the tax under Section 2 of the Cigarette Tax Act (35 ILCS
18 130/2); and

19 (6) such other information the Department may require.

20 (b) Each person engaged in business within this State who
21 makes an out-of-state sale shall, for each individual sale,
22 submit to the appropriate tax official of the state in which
23 the consumer is located the information required in subsection
24 (a).

25 (c) Any person that satisfies the requirements of 15 U.S.C.
26 Section 376 shall be deemed to satisfy the requirements of

1 subsections (a) and (b).

2 (d) The Department is authorized to disclose to the
3 Attorney General any information received under this title and
4 requested by the Attorney General. The Department and the
5 Attorney General shall share with each other the information
6 received under this title and may share the information with
7 other federal, State, or local agencies for purposes of
8 enforcement of this title or the laws of the federal government
9 or of other states.

10 (e) This Section shall not be construed to impose liability
11 upon any delivery service, or officers or employees thereof,
12 when acting within the scope of business of the delivery
13 service.

14 (f) The Department may establish procedures requiring
15 electronic transmission of the information required by this
16 Section directly to the Department on forms prescribed and
17 furnished by the Department.

18 (Source: P.A. 95-1053, eff. 1-1-10; 96-782, eff. 1-1-10.)

19 (720 ILCS 680/Act rep.)

20 Section 45. The Smokeless Tobacco Limitation Act is
21 repealed.

22 Section 50. The Tobacco Accessories and Smoking Herbs
23 Control Act is amended by changing Sections 2 and 4 as follows:

1 (720 ILCS 685/2) (from Ch. 23, par. 2358-2)

2 Sec. 2. Purpose. The sale and possession of marijuana,
3 hashish, cocaine, opium and their derivatives, is not only
4 prohibited by Illinois Law, but the use of these substances has
5 been deemed injurious to the health of the user.

6 It has further been determined by the Surgeon General of
7 the United States that the use of tobacco is hazardous to human
8 health.

9 The ready availability of smoking herbs to persons under 21
10 years of age ~~minors~~ could lead to the use of tobacco and
11 illegal drugs.

12 It is in the best interests of the citizens of the State of
13 Illinois to seek to prohibit the spread of illegal drugs,
14 tobacco or smoking materials to persons under 21 years of age
15 ~~minors~~. The prohibition of the sale of tobacco and snuff
16 accessories and smoking herbs to persons under 21 years of age
17 ~~minors~~ would help to curb the usage of illegal drugs and
18 tobacco products, among our youth.

19 (Source: P.A. 82-487.)

20 (720 ILCS 685/4) (from Ch. 23, par. 2358-4)

21 Sec. 4. Offenses.

22 (a) Sale to persons under 21 years of age ~~minors~~. No person
23 shall knowingly sell, barter, exchange, deliver or give away or
24 cause or permit or procure to be sold, bartered, exchanged,
25 delivered, or given away tobacco accessories or smoking herbs

1 to any person under 21 ~~18~~ years of age.

2 (a-5) Sale of bidi cigarettes. No person shall knowingly
3 sell, barter, exchange, deliver, or give away a bidi cigarette
4 to another person, nor shall a person cause or permit or
5 procure a bidi cigarette to be sold, bartered, exchanged,
6 delivered, or given away to another person.

7 (b) Sale of cigarette paper. No person shall knowingly
8 offer, sell, barter, exchange, deliver or give away cigarette
9 paper or cause, permit, or procure cigarette paper to be sold,
10 offered, bartered, exchanged, delivered, or given away except
11 from premises or an establishment where other tobacco products
12 are sold. For purposes of this Section, "tobacco products"
13 means cigarettes, cigars, smokeless tobacco, or tobacco in any
14 of its forms.

15 (b-5) Sale of flavored wrapping paper and wrapping leaf. A
16 person shall not knowingly sell, give away, barter, exchange,
17 or otherwise furnish to any person any wrapping paper or
18 wrapping leaf, however characterized, including, without
19 limitation, cigarette papers, blunt wraps, cigar wraps, or
20 tubes of paper or leaf, or any similar device, for the purpose
21 of making a roll of tobacco or herbs for smoking, that is or is
22 held out to be, impregnated, scented, or imbibed with, or aged
23 or dipped in, a characterizing flavor, other than tobacco or
24 menthol, including, without limitation, alcoholic or liquor
25 flavor, or both, chocolate, fruit flavoring, vanilla, peanut
26 butter, jelly, or any combination of those flavors or similar

1 child attractive scent or flavor.

2 (c) Sale of cigarette paper from vending machines. No
3 person shall knowingly offer, sell, barter, exchange, deliver
4 or give away cigarette paper or cause, permit, or procure
5 cigarette paper to be sold, offered, bartered, exchanged,
6 delivered, or given away by use of a vending or coin-operated
7 machine or device. For purposes of this Section, "cigarette
8 paper" shall not include any paper that is incorporated into a
9 product to which a tax stamp must be affixed under the
10 Cigarette Tax Act or the Cigarette Use Tax Act.

11 (d) Use of identification cards. No person in the
12 furtherance or facilitation of obtaining smoking accessories
13 and smoking herbs shall display or use a false or forged
14 identification card or transfer, alter, or deface an
15 identification card.

16 (e) Warning to persons under 21 years of age ~~minors~~. Any
17 person, firm, partnership, company or corporation operating a
18 place of business where tobacco accessories and smoking herbs
19 are sold or offered for sale shall post in a conspicuous place
20 upon the premises a sign upon which there shall be imprinted
21 the following statement, "SALE OF TOBACCO ACCESSORIES AND
22 SMOKING HERBS TO PERSONS UNDER 21 ~~EIGHTEEN~~ YEARS OF AGE OR THE
23 MISREPRESENTATION OF AGE TO PROCURE SUCH A SALE IS PROHIBITED
24 BY LAW". The sign shall be printed on a white card in red
25 letters at least one-half inch in height.

26 (Source: P.A. 97-917, eff. 8-9-12.)

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