

1 AN ACT concerning taxes.

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 Sections 1, 2, 3, 4, 4a, 4b, 5, 6, 7, 9, 9a, 9c, 9d, 10b, 11,  
6 13, 14, 15, 18, 18a, 18b, 18c, 20, 21, 22, 23, 24, and 25 and  
7 adding Sections 0.01, 13a, 15a, 15b, 18d, 31, and 32 as  
8 follows:

9 (35 ILCS 130/0.01 new)

10 Sec. 0.01. Short title. This Act may be cited as the  
11 Cigarette Tax Act.

12 (35 ILCS 130/1) (from Ch. 120, par. 453.1)

13 Sec. 1. For the purposes of this Act:

14 "Cigarette", when used in this Act, shall be construed to  
15 mean: Any roll for smoking made wholly or in part of tobacco  
16 irrespective of size or shape and whether or not such tobacco  
17 is flavored, adulterated or mixed with any other ingredient,  
18 and the wrapper or cover of which is made of paper or any  
19 other substance or material except tobacco.

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

26 "Prior Continuous Compliance Distributor Taxpayer" means  
27 any distributor ~~person~~ who is licensed under this Act and  
28 who, having been a licensee for a continuous period of 5  
29 years, is determined by the Department not to have been  
30 either delinquent or deficient in the payment of tax

1 liability during that period or otherwise in violation of  
2 this Act. Also, any distributor taxpayer who has, as  
3 verified by the Department, continuously complied with the  
4 condition of his bond or other security under provisions of  
5 this Act for a period of 5 consecutive years shall be  
6 considered to be a "Prior continuous compliance distributor  
7 taxpayer". In calculating the consecutive period of time  
8 described herein for qualification as a "prior continuous  
9 compliance distributor taxpayer", a consecutive period of  
10 time of qualifying compliance immediately prior to the  
11 effective date of this amendatory Act of 1987 shall be  
12 credited to any licensee who became licensed on or before the  
13 effective date of this amendatory Act of 1987.

14 "Department" means the Department of Revenue.

15 "Sale" means any transfer, exchange or barter in any  
16 manner or by any means whatsoever for a consideration, and  
17 includes and means all sales made by any person.

18 "Original Package" means the individual packet, box or  
19 other container whatsoever used to contain and to convey  
20 cigarettes to the consumer.

21 "Consumer" means any person who acquires cigarettes for  
22 consumption or use in this State and not for resale.

23 "Distributor" means any person, whether located within or  
24 outside of this State, other than a licensed retailer, who  
25 sells or distributes cigarettes within or into this State.

26 "Distributor" does not include any cigarette manufacturer,  
27 export warehouse proprietor, or importer with a valid permit  
28 under 26 U.S.C. 5712 if that person sells or distributes  
29 cigarettes in this State only to licensed distributors, or to  
30 an export warehouse proprietor or another manufacturer with a  
31 valid permit under 26 U.S.C. 5712.

32 "Importer" means any person who imports into the United  
33 States, either directly or indirectly, a finished cigarette  
34 for sale or distribution.

1 "Licensed", when used with reference to a manufacturer,  
 2 importer, or retailer, means only those persons who hold a  
 3 valid and current license issued under Section 4 for the type  
 4 of business being engaged in and, when used with reference to  
 5 a distributor, means only those persons who hold a valid and  
 6 current license issued under Section 4. When the term  
 7 "licensed" is used before a list of entities, such as  
 8 "licensed manufacturer, importer, wholesale dealer, or retail  
 9 dealer", that term shall be deemed to apply to each entity in  
 10 the list.

11 "Manufacturer" means any person who makes, manufactures,  
 12 or fabricates cigarettes.

13 "Stamp" or "stamps" means the indicia required to be  
 14 placed on a cigarette package that evidences payment of the  
 15 tax on cigarettes imposed under Section 2.

16 "Distributor"-means-any-and-each-of-the-following:

17 (1)--Any--person--engaged--in--the--business--of--selling  
 18 cigarettes-in-this-State-who-brings-or-causes-to--be--brought  
 19 into-this-State-from-without-this-State-any-original-packages  
 20 of--cigarettes,--on--which--original--packages--there--is--no  
 21 authorized--evidence--underneath-a-sealed-transparent-wrapper  
 22 showing-that-the-tax-liability-imposed-by-this-Act--has--been  
 23 paid---or---assumed---by--the--out-of-State--seller--of--such  
 24 cigarettes,--for-sale-or-other-disposition-in--the--course--of  
 25 such-business.

26 (2)--Any--person--who--makes,--manufactures-or-fabricates  
 27 cigarettes-in-this-State-for-sale-in--this--State,--except--a  
 28 person--who-makes,--manufactures-or-fabricates-cigarettes-as-a  
 29 part--of--a--correctional--industries--program--for--sale--to  
 30 residents-incarcerated--in--penal--institutions--or--resident  
 31 patients-of-a-State-operated-mental-health-facility.

32 (3)--Any--person--who--makes,--manufactures-or-fabricates  
 33 cigarettes-outside-this-State,--which-cigarettes-are-placed-in  
 34 original-packages-contained-in-sealed--transparent--wrappers,

1 ~~for--delivery--or-shipment-into-this-State,-and-who-elects-to~~  
2 ~~qualify-and-is-accepted-by-the-Department--as--a--distributor~~  
3 ~~under-Section-4b-of-this-Act.~~

4 "Place of business" shall mean and include any place  
5 where cigarettes are sold or where cigarettes are  
6 manufactured, stored or kept for the purpose of sale or  
7 consumption, including any vessel, vehicle, airplane, train  
8 or vending machine.

9 "Business" means any trade, occupation, activity or  
10 enterprise engaged in for the purpose of selling cigarettes  
11 in this State.

12 "Retailer" means any person, whether located within or  
13 outside the State, who engages in the making of transfers of  
14 the ownership of, or title to, cigarettes to a purchaser for  
15 use or consumption and not for resale in any form, for a  
16 valuable consideration, except a person who transfers to  
17 residents incarcerated in penal institutions or resident  
18 patients of a State-operated mental health facility ownership  
19 of cigarettes made, manufactured, or fabricated as part of a  
20 correctional industries program.

21 "Retailer" shall be construed to include any person who  
22 engages in the making of transfers of the ownership of, or  
23 title to, cigarettes to a purchaser, for use or consumption  
24 by any other person to whom such purchaser may transfer the  
25 cigarettes without a valuable consideration, except a person  
26 who transfers to residents incarcerated in penal institutions  
27 or resident patients of a State-operated mental health  
28 facility ownership of cigarettes made, manufactured or  
29 fabricated as part of a correctional industries program.

30 (Source: P.A. 88-480.)

31 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

32 Sec. 2. Tax imposed; rate; collection, payment, and  
33 distribution; discount.

1 (a) A tax is imposed upon the sale or consumption any  
2 person--engaged--in--business--as-a-retailer of cigarettes in  
3 this State at the rate of 5 1/2 mills per cigarette sold,--or  
4 otherwise--disposed-of-in-the-course-of-such-business-in-this  
5 State. In addition to any other tax imposed by this Act, a  
6 tax is imposed upon the sale or consumption any-person  
7 engaged-in-business-as-a-retailer of cigarettes in this State  
8 at a rate of 1/2 mill per cigarette sold--or--otherwise  
9 disposed--of--in-the-course-of-such-business-in-this-State on  
10 and after January 1, 1947, and shall be paid into the  
11 Metropolitan Fair and Exposition Authority Reconstruction  
12 Fund. On and after December 1, 1985, in addition to any other  
13 tax imposed by this Act, a tax is imposed upon the sale or  
14 consumption any--person-engaged-in-business-as-a-retailer of  
15 cigarettes in this State at a rate of 4 mills per cigarette  
16 sold--or-otherwise-disposed-of-in-the-course-of-such-business  
17 in--this--State. Of the additional tax imposed by this  
18 amendatory Act of 1985, \$9,000,000 of the moneys received by  
19 the Department of Revenue pursuant to this Act shall be paid  
20 each month into the Common School Fund. On and after the  
21 effective date of this amendatory Act of 1989, in addition to  
22 any other tax imposed by this Act, a tax is imposed upon the  
23 sale or consumption any--person--engaged--in--business--as--a  
24 retailer of cigarettes in this State at the rate of 5 mills  
25 per cigarette sold-or-otherwise-disposed-of-in-the-course--of  
26 such--business-in-this-State. On and after the effective date  
27 of this amendatory Act of 1993, in addition to any other tax  
28 imposed by this Act, a tax is imposed upon the sale or  
29 consumption any-person-engaged-in-business-as-a--retailer of  
30 cigarettes in this State at the rate of 7 mills per cigarette  
31 sold--or-otherwise-disposed-of-in-the-course-of-such-business  
32 in-this-State. On and after December 15, 1997, in addition to  
33 any other tax imposed by this Act, a tax is imposed upon the  
34 sale or consumption any--person--engaged--in-business-as-a

1 retailer of cigarettes in this State at the rate of 7 mills  
2 per cigarette ~~sold or otherwise disposed of in the course of~~  
3 ~~such business of this State~~. All of the moneys received by  
4 the Department of Revenue pursuant to this Act ~~and the~~  
5 ~~Cigarette Use Tax Act~~ from the additional taxes imposed by  
6 this amendatory Act of 1997, shall be paid each month into  
7 the Common School Fund. On and after July 1, 2002, in  
8 addition to any other tax imposed by this Act, a tax is  
9 imposed upon the sale or consumption ~~any person engaged in~~  
10 ~~business as a retailer~~ of cigarettes in this State at the  
11 rate of 20.0 mills per cigarette ~~sold or otherwise disposed~~  
12 ~~of in the course of such business in this State~~. The payment  
13 of such taxes shall be evidenced by a stamp affixed to each  
14 original package of cigarettes, ~~or an authorized substitute~~  
15 ~~for such stamp imprinted on each original package of such~~  
16 ~~cigarettes underneath the sealed transparent outside wrapper~~  
17 ~~of such original package, as hereinafter provided~~. However,  
18 such taxes are not imposed upon any activity in such business  
19 in interstate commerce or otherwise, which activity may not  
20 under the Constitution and statutes of the United States be  
21 made the subject of taxation by this State.

22 Beginning on the effective date of this amendatory Act of  
23 the 92nd General Assembly, all of the moneys received by the  
24 Department of Revenue pursuant to this Act ~~and the Cigarette~~  
25 ~~Use Tax Act~~, other than the moneys that are dedicated to the  
26 Metropolitan Fair and Exposition Authority Reconstruction  
27 Fund and the Common School Fund, shall be distributed each  
28 month as follows: first, there shall be paid into the General  
29 Revenue Fund an amount which, when added to the amount paid  
30 into the Common School Fund for that month, equals  
31 \$33,300,000; then, from the moneys remaining, if any amounts  
32 required to be paid into the General Revenue Fund in previous  
33 months remain unpaid, those amounts shall be paid into the  
34 General Revenue Fund; then, beginning on April 1, 2003, from

1 the moneys remaining, \$5,000,000 per month shall be paid into  
2 the School Infrastructure Fund; then, if any amounts required  
3 to be paid into the School Infrastructure Fund in previous  
4 months remain unpaid, those amounts shall be paid into the  
5 School Infrastructure Fund; then the moneys remaining, if  
6 any, shall be paid into the Long-Term Care Provider Fund. To  
7 the extent that more than \$25,000,000 has been paid into the  
8 General Revenue Fund and Common School Fund per month for the  
9 period of July 1, 1993 through the effective date of this  
10 amendatory Act of 1994 from combined receipts of the  
11 Cigarette Tax Act and---the---Cigarette--Use--Tax--Act,  
12 notwithstanding the distribution provided in this Section,  
13 the Department of Revenue is hereby directed to adjust the  
14 distribution provided in this Section to increase the next  
15 monthly payments to the Long Term Care Provider Fund by the  
16 amount paid to the General Revenue Fund and Common School  
17 Fund in excess of \$25,000,000 per month and to decrease the  
18 next monthly payments to the General Revenue Fund and Common  
19 School Fund by that same excess amount.

20 When any tax imposed herein terminates or has terminated,  
21 distributors who have bought stamps while such tax was in  
22 effect and who therefore paid such tax, but who can show, to  
23 the Department's satisfaction, that they sold the cigarettes  
24 to which they affixed such stamps after such tax had  
25 terminated and did not recover the tax or its equivalent from  
26 purchasers, shall be allowed by the Department to take credit  
27 for such absorbed tax against subsequent tax stamp purchases  
28 from the Department by such distributor.

29 The ~~impact-of~~ the tax levied by this Act ~~is-imposed-upon~~  
30 ~~the-retailer-and~~ shall be prepaid or pre-collected by the  
31 distributor for the purpose of convenience and facility only,  
32 and the amount of the tax shall be added to the price of the  
33 cigarettes sold by such distributor. Collection of the tax  
34 shall be evidenced by a stamp or stamps affixed to each

1 original package of cigarettes, as hereinafter provided.

2 Each distributor shall collect the tax from the retailer  
3 at or before the time of the sale, shall affix the stamps to  
4 each package of cigarettes sold or distributed for  
5 consumption within this State as hereinafter required, and  
6 shall remit the tax collected from retailers to the  
7 Department, as hereinafter provided. Any distributor who  
8 fails to properly collect and pay the tax imposed by this Act  
9 shall be liable for the tax. Any distributor having  
10 cigarettes to which stamps have been affixed in his  
11 possession for sale on the effective date of this amendatory  
12 Act of 1989 shall not be required to pay the additional tax  
13 imposed by this amendatory Act of 1989 on such stamped  
14 cigarettes. Any distributor having cigarettes to which stamps  
15 have been affixed in his or her possession for sale at 12:01  
16 a.m. on the effective date of this amendatory Act of 1993, is  
17 required to pay the additional tax imposed by this amendatory  
18 Act of 1993 on such stamped cigarettes. This payment, less  
19 the discount provided in subsection (b), shall be due when  
20 the distributor first makes a purchase of cigarette tax  
21 stamps after the effective date of this amendatory Act of  
22 1993, or on the first due date of a return under this Act  
23 after the effective date of this amendatory Act of 1993,  
24 whichever occurs first. Any distributor having cigarettes to  
25 which stamps have been affixed in his possession for sale on  
26 December 15, 1997 shall not be required to pay the additional  
27 tax imposed by this amendatory Act of 1997 on such stamped  
28 cigarettes.

29 Any distributor having cigarettes to which stamps have  
30 been affixed in his or her possession for sale on July 1,  
31 2002 shall not be required to pay the additional tax imposed  
32 by this amendatory Act of the 92nd General Assembly on those  
33 stamped cigarettes.

34 The amount of the Cigarette Tax imposed by this Act shall



1 be separately stated, apart from the price of the goods, by  
2 both distributors and retailers, in all advertisements, bills  
3 and sales invoices.

4 (b) The distributor shall be required to collect the  
5 taxes provided under paragraph (a) hereof, and, to cover the  
6 costs of such collection, shall be allowed a discount during  
7 any year commencing July 1st and ending the following June  
8 30th in accordance with the schedule set out hereinbelow,  
9 which discount shall be allowed at the time of purchase of  
10 the stamps when purchase is required by this Act, or at the  
11 time when the tax is remitted to the Department without the  
12 purchase of stamps if from the Department authorizes the use  
13 of tax meter impressions under Section 3 ~~when that method of~~  
14 ~~paying the tax is required or authorized by this Act.~~ Prior  
15 to December 1, 1985, a discount equal to 1 2/3% of the amount  
16 of the tax up to and including the first \$700,000 paid  
17 hereunder by such distributor to the Department during any  
18 such year; 1 1/3% of the next \$700,000 of tax or any part  
19 thereof, paid hereunder by such distributor to the Department  
20 during any such year; 1% of the next \$700,000 of tax, or any  
21 part thereof, paid hereunder by such distributor to the  
22 Department during any such year, and 2/3 of 1% of the amount  
23 of any additional tax paid hereunder by such distributor to  
24 the Department during any such year shall apply. On and after  
25 December 1, 1985, a discount equal to 1.75% of the amount of  
26 the tax payable under this Act up to and including the first  
27 \$3,000,000 paid hereunder by such distributor to the  
28 Department during any such year and 1.5% of the amount of any  
29 additional tax paid hereunder by such distributor to the  
30 Department during any such year shall apply.

31 Two or more distributors that ~~use a common means of~~  
32 ~~affixing revenue tax stamps or that~~ are owned or controlled  
33 by the same interests shall be treated as a single  
34 distributor for the purpose of computing the discount.

1 (c) The taxes herein imposed are in addition to all  
2 other occupation or privilege taxes imposed by the State of  
3 Illinois, or by any political subdivision thereof, or by any  
4 municipal corporation.

5 (Source: P.A. 92-536, eff. 6-6-02.)

6 (35 ILCS 130/3) (from Ch. 120, par. 453.3)

7 Sec. 3. Affixing tax stamp; remitting tax to the  
8 Department. Payment of the taxes imposed by Section 2 of  
9 this Act shall (except as hereinafter provided) be evidenced  
10 by revenue tax stamps affixed by a licensed distributor to  
11 each original package of cigarettes. No stamp shall be  
12 applied to any cigarette package and no tax under Section 2  
13 shall be imposed on any cigarettes that are exempt from tax  
14 under 26 U.S.C. 5701 and that are distributed in accordance  
15 with federal regulations. Distributors may apply stamps only  
16 to cigarette packages that they have received directly from a  
17 licensed manufacturer or importer of cigarettes.

18 Each licensed distributor of cigarettes located within  
19 this State shall apply stamps to all applicable cigarette  
20 packages within 72 hours after receipt of those products.  
21 Each distributor of cigarettes located outside this State  
22 shall apply stamps to all applicable cigarette packages  
23 before sending the packages into this State.

24 Distributors shall be permitted to set aside, without  
25 application of stamps, only that part of the distributor's  
26 stock that is identified for sale or distribution outside of  
27 the borders of this State. If a distributor, as permitted  
28 under this Section, maintains stocks of unstamped cigarette  
29 packages, those unstamped packages shall be stored separately  
30 from stamped product packages. No unstamped cigarette  
31 packages shall be transferred by a distributor to another  
32 facility of the distributor within this State or to another  
33 person within this State. Any person who is doing business as

1 both a distributor and a retailer shall maintain separate  
2 areas for stamped and unstamped product. Except as provided  
3 in Sections 3 and 9c, no person, other than a licensed  
4 manufacturer or importer, or a licensed distributor that  
5 receives unstamped cigarette packages directly from a  
6 licensed cigarette manufacturer or importer and holds the  
7 cigarettes in accordance with this Act, shall hold an  
8 unstamped cigarette package.

9 Each roll of stamps, or group of sheets, shall have a  
10 unique serial number, which shall be legible at the point of  
11 sale. The Department shall keep records of which distributor  
12 purchases each roll or group of sheets identified by serial  
13 number. If the Department permits distributors to purchase  
14 partial rolls or sheets, in no case may stamps bearing the  
15 same serial number be sold to more than one distributor. The  
16 remainder of the roll or sheet, if any, shall either be  
17 retained for later purchases by the same distributor or  
18 destroyed.

19 Only licensed distributors may purchase or obtain  
20 cigarette stamps. Distributors shall not sell or provide the  
21 stamps to any other distributor or person. Each--distributor  
22 of--cigarettes,--before--delivering--or--causing--to--be--delivered  
23 any--original--package--of--cigarettes--in--this--State--to--a  
24 purchaser,--shall--firmly--affix--a--proper--stamp--or--stamps--to  
25 each--such--package,--or--(in--case--of--manufacturers--of--cigarettes  
26 in--original--packages--which--are--contained--inside--a--sealed  
27 transparent--wrapper)--shall--imprint--the--required--language--on  
28 the--original--package--of--cigarettes--beneath--such--outside  
29 wrapper,--as--hereinafter--provided.

30 No stamp or imprint may be affixed to, or made upon, any  
31 package of cigarettes unless that package complies with all  
32 requirements of the federal Cigarette Labeling and  
33 Advertising Act, 15 U.S.C. 1331 and following, for the  
34 placement of labels, warnings, or any other information upon

1 a package of cigarettes that is sold within the United  
2 States. Under the authority of Section 6, the Department  
3 shall revoke the license of any distributor that is  
4 determined to have violated this paragraph. A person may not  
5 affix a stamp on a package of cigarettes, cigarette papers,  
6 wrappers, or tubes if that individual package has been marked  
7 for export outside the United States with a label or notice  
8 in compliance with Section 290.185 of Title 27 of the Code of  
9 Federal Regulations. It is not a defense to a proceeding for  
10 violation of this paragraph that the label or notice has been  
11 removed, mutilated, obliterated, or altered in any manner.

12 The Department, or any person authorized by the  
13 Department, shall sell such stamps only to persons holding  
14 valid licenses as distributors under this Act. The Department  
15 may refuse to sell stamps to any distributor ~~person~~ who does  
16 not comply with the provisions of this Act. Beginning on the  
17 effective date of this amendatory Act of the 92nd General  
18 Assembly and through June 30, 2002, persons holding valid  
19 licenses as distributors may purchase cigarette tax stamps up  
20 to an amount equal to 115% of the distributor's average  
21 monthly cigarette tax stamp purchases over the 12 calendar  
22 months prior to the effective date of this amendatory Act of  
23 the 92nd General Assembly.

24 Prior to December 1, 1985, the Department shall allow a  
25 distributor 21 days in which to make final payment of the  
26 amount to be paid for such stamps, by allowing the  
27 distributor to make payment for the stamps at the time of  
28 purchasing them with a draft which shall be in such form as  
29 the Department prescribes, and which shall be payable within  
30 21 days thereafter: Provided that such distributor has filed  
31 with the Department, and has received the Department's  
32 approval of, a bond, which is in addition to the bond  
33 required under Section 4 of this Act, payable to the  
34 Department in an amount equal to 80% of such distributor's

1 average monthly tax liability to the Department under this  
2 Act during the preceding calendar year or \$500,000, whichever  
3 is less. The Bond shall be joint and several and shall be in  
4 the form of a surety company bond in such form as the  
5 Department prescribes, or it may be in the form of a bank  
6 certificate of deposit or bank letter of credit. The bond  
7 shall be conditioned upon the distributor's payment of amount  
8 of any 21-day draft which the Department accepts from that  
9 distributor for the delivery of stamps to that distributor  
10 under this Act. The distributor's failure to pay any such  
11 draft, when due, shall also make such distributor  
12 automatically liable to the Department for a penalty equal to  
13 25% of the amount of such draft.

14 On and after December 1, 1985, the Department shall allow  
15 a distributor 30 days in which to make final payment of the  
16 amount to be paid for such stamps, by allowing the  
17 distributor to make payment for the stamps at the time of  
18 purchasing them with a draft which shall be in such form as  
19 the Department prescribes, and which shall be payable within  
20 30 days thereafter, and beginning on January 1, 2003 and  
21 thereafter, the draft shall be payable by means of electronic  
22 funds transfer: Provided that such distributor has filed  
23 with the Department, and has received the Department's  
24 approval of, a bond, which is in addition to the bond  
25 required under Section 4 of this Act, payable to the  
26 Department in an amount equal to 150% of such distributor's  
27 average monthly tax liability to the Department under this  
28 Act during the preceding calendar year or \$750,000, whichever  
29 is less, except that as to bonds filed on or after January 1,  
30 1987, such additional bond shall be in an amount equal to  
31 100% of such distributor's average monthly tax liability  
32 under this Act during the preceding calendar year or  
33 \$750,000, whichever is less. The bond shall be joint and  
34 several and shall be in the form of a surety company bond in

1 such form as the Department prescribes, or it may be in the  
 2 form of a bank certificate of deposit or bank letter of  
 3 credit. The bond shall be conditioned upon the distributor's  
 4 payment of the amount of any 30-day draft which the  
 5 Department accepts from that distributor for the delivery of  
 6 stamps to that distributor under this Act. The distributor's  
 7 failure to pay any such draft, when due, shall also make such  
 8 distributor automatically liable to the Department for a  
 9 penalty equal to 25% of the amount of such draft.

10 Every prior continuous compliance distributor taxpayer  
 11 shall be exempt from all requirements under this Section  
 12 concerning the furnishing of such bond, as defined in this  
 13 Section, as a condition precedent to his being authorized to  
 14 engage in the business licensed under this Act. This  
 15 exemption shall continue for each such taxpayer until such  
 16 time as he may be determined by the Department to be  
 17 delinquent in the filing of any returns, or is determined by  
 18 the Department (either through the Department's issuance of a  
 19 final assessment which has become final under the Act, or by  
 20 the taxpayer's filing of a return which admits tax to be due  
 21 that is not paid) to be delinquent or deficient in the paying  
 22 of any tax under this Act, at which time that taxpayer shall  
 23 become subject to the bond requirements of this Section and,  
 24 as a condition of being allowed to continue to engage in the  
 25 business licensed under this Act, shall be required to  
 26 furnish bond to the Department in such form as provided in  
 27 this Section. Such taxpayer shall furnish such bond for a  
 28 period of 2 years, after which, if the taxpayer has not been  
 29 delinquent in the filing of any returns, or delinquent or  
 30 deficient in the paying of any tax under this Act, the  
 31 Department may reinstate such person as a prior continuance  
 32 compliance taxpayer. Any taxpayer who fails to pay an  
 33 admitted or established liability under this Act may also be  
 34 required to post bond or other acceptable security with the

1 Department-guaranteeing--the--payment--of--such--admitted--or  
2 established-liability-

3 Any person aggrieved by any decision of the Department  
4 under this Section may, within the time allowed by law,  
5 protest and request a hearing, whereupon the Department shall  
6 give notice and shall hold a hearing in conformity with the  
7 provisions of this Act and then issue its final  
8 administrative decision in the matter to such person. In the  
9 absence of such a protest filed within the time allowed by  
10 law, the Department's decision shall become final without any  
11 further determination being made or notice given.

12 The Department shall discharge any surety and shall  
13 release and return any bond or security deposited, assigned,  
14 pledged, or otherwise provided to it by a distributor  
15 ~~taxpayer~~ under this Section within 30 days after:

16 (1) Such distributor ~~taxpayer~~ becomes a prior continuous  
17 compliance distributor ~~taxpayer~~; or

18 (2) Such distributor ~~taxpayer~~ has ceased to collect  
19 receipts on which he is required to remit tax to the  
20 Department, has filed a final tax return, and has paid to the  
21 Department an amount sufficient to discharge his remaining  
22 tax liability as determined by the Department under this Act.  
23 The Department shall make a final determination of the  
24 distributor's ~~taxpayer's~~ outstanding tax liability as  
25 expeditiously as possible after his final tax return has been  
26 filed. If the Department cannot make such final  
27 determination within 45 days after receiving the final tax  
28 return, within such period it shall so notify the distributor  
29 ~~taxpayer~~, stating its reasons therefor.

30 The Department may authorize distributors to affix  
31 revenue tax stamps by imprinting tax meter stamps upon  
32 original packages of cigarettes, provided that the meter  
33 impressions shall contain a number or mark, legible at the  
34 point of sale, that is unique to the particular distributor.

1 The Department shall adopt rules and regulations relating to  
2 the imprinting of such tax meter stamps as will result in  
3 payment of the proper taxes as herein imposed. No distributor  
4 may affix revenue tax stamps to original packages of  
5 cigarettes by imprinting tax meter stamps thereon unless such  
6 distributor has first obtained permission from the Department  
7 to employ this method of affixation. The Department shall  
8 regulate the use of tax meters and may, to assure the proper  
9 collection of the taxes imposed by this Act, revoke or  
10 suspend the privilege, theretofore granted by the Department  
11 to any distributor, to imprint tax meter stamps upon original  
12 packages of cigarettes.

13 Illinois---cigarette---manufacturers---who---place--their  
14 cigarettes-in-original-packages-which-are-contained-inside--a  
15 sealed---transparent---wrapper,---and---similar--out-of-State  
16 cigarette-manufacturers-who-elect-to-qualify-and-are-accepted  
17 by-the-Department-as-distributors-under-Section--4b--of--this  
18 Act,--shall-pay-the-taxes-imposed-by-this-Act-by-remitting-the  
19 amount--thereof--to--the-Department--by--the-5th-day-of--each-month  
20 covering---cigarettes---shipped--or--otherwise--delivered--in  
21 Illinois--to-purchasers-during-the-preceding--calendar--month.  
22 Such--manufacturers--of-cigarettes-in-original-packages-which  
23 are-contained-inside-a--sealed--transparent--wrapper,--before  
24 delivering--such--cigarettes-or-causing-such-cigarettes-to-be  
25 delivered-in-this-State-to-purchasers,--shall--evidence--their  
26 obligation--to--remit--the--taxes--due--with--respect--to--such  
27 cigarettes-by-imprinting-language-to--be--prescribed--by--the  
28 Department--on--each--original--package--of--such--cigarettes  
29 underneath--the--sealed--transparent--outside-wrapper-of-such  
30 original-package,--in-such-place--thereon--and--in-such-manner--as  
31 the-Department-may-designate.--Such-imprinted--language--shall  
32 acknowledge--the--manufacturer's--payment-of-or-liability-for  
33 the-tax-imposed-by-this-Act-with-respect-to-the--distribution  
34 of-such-cigarettes.



1 A distributor shall not affix, or cause to be affixed,  
 2 any stamp or imprint to a package of cigarettes, as provided  
 3 for in this Section, if the tobacco product manufacturer, as  
 4 defined in Section 10 of the Tobacco Product Manufacturers'  
 5 Escrow Act, that made or sold the cigarettes has failed to  
 6 become a participating manufacturer, as defined in  
 7 subdivision (a)(1) of Section 15 of the Tobacco Product  
 8 Manufacturers' Escrow Act, or has failed to create a  
 9 qualified escrow fund for any cigarettes manufactured by the  
 10 tobacco product manufacturer and sold in this State or  
 11 otherwise failed to bring itself into compliance with  
 12 subdivision (a)(2) of Section 15 of the Tobacco Product  
 13 Manufacturers' Escrow Act.

14 (Source: P.A. 91-246, eff. 7-22-99; 92-322, eff. 1-1-02;  
 15 92-536, eff. 6-6-02; 92-737, eff. 7-25-02; revised 9-10-02.)

16 (35 ILCS 130/4) (from Ch. 120, par. 453.4)

17 Sec. 4. License required for manufacturers, importers,  
 18 distributors, and retailers ~~Distributor's license~~. No person  
 19 may engage in business as a manufacturer, importer, retailer,  
 20 or distributor of cigarettes in this State within the meaning  
 21 of the first 2 definitions of distributor in Section 1 of  
 22 this Act without first having obtained a license therefor  
 23 from the Department. Application for license shall be made to  
 24 the Department in form as furnished and prescribed by the  
 25 Department. Each applicant for a license under this Section  
 26 shall furnish to the Department on the form signed and  
 27 verified by the applicant the following information:

- 28 (a) The name and address of the applicant;
- 29 (b) The address of each the location at which the  
 30 applicant proposes to engage in business within as ~~a~~  
 31 ~~distributor of cigarettes in~~ this State;
- 32 (c) The address of the location of the applicant's  
 33 principal place of business; provided, that the address

1 shall be updated by the licensee as necessary;

2 (d) If the applicant is a firm, partnership, or  
3 association, the application shall state the name and  
4 address of each of its members. If the applicant is a  
5 corporation, the application shall state the name and  
6 address of each of its officers and the name and address  
7 of any person who owns, directly or indirectly, more than  
8 5% of the ownership interests in the corporation; and

9 (e) (e) Such other additional information as the  
10 Department may lawfully require by its rules and  
11 regulations.

12 The annual license fee payable to the Department for each  
13 distributor's, manufacturer's, and importer's license shall  
14 be \$250. The annual license fee payable to the Department for  
15 each retailer's license shall be \$100. The purpose of such  
16 annual license fees fee is to defray the cost, to the  
17 Department, of administering this Act serializing-cigarette  
18 tax-stamps. Each applicant for license shall pay such fee to  
19 the Department at the time of submitting his application for  
20 license to the Department.

21 Every applicant who is required to procure a  
22 distributor's license shall file with his application a joint  
23 and several bond. Such bond shall be executed to the  
24 Department of Revenue, with good and sufficient surety or  
25 sureties residing or licensed to do business within the State  
26 of Illinois, in the amount of \$2,500, conditioned upon the  
27 true and faithful compliance by the licensee with all of the  
28 provisions of this Act. Such bond, or a reissue thereof, or a  
29 substitute therefor, shall be kept in effect during the  
30 entire period covered by the license.

31 A separate application for license shall be made, a  
32 separate annual license fee paid, and a separate bond filed  
33 with respect to distributors, for each place of business in  
34 this State at which a person who is required to procure a

1 distributor's license under this Section proposes to engage  
 2 in business as a manufacturer, importer, retailer, or  
 3 distributor in Illinois under this Act. If the applicant does  
 4 not have a place of business in this State, an application  
 5 shall be made for the applicant's principal place of  
 6 business, wherever located. A separate license shall be  
 7 issued for each application.

8 The following are ineligible to receive a distributor's  
 9 license under this Act:

10 (1) an applicant a-person who is not of good  
 11 character and reputation in the community in which  
 12 he resides;

13 (2) an applicant a--person who has been  
 14 convicted of a felony under any Federal or State  
 15 law, if the Department, after investigation and a  
 16 hearing, if requested by the applicant, determines  
 17 that such person has not been sufficiently  
 18 rehabilitated to warrant the public trust;

19 (3) an applicant who owes \$500 or more in  
 20 cigarette taxes;

21 (4) an applicant who has had a license under  
 22 this Act revoked by the Department within the past 2  
 23 years;

24 (5) an applicant who has been convicted of a  
 25 crime relating to cigarettes, including but not  
 26 limited to, selling stolen or counterfeit  
 27 cigarettes, receiving stolen or counterfeit  
 28 cigarettes, or involvement in the smuggling or  
 29 counterfeiting or cigarettes;

30 (6) an applicant who is a cigarette  
 31 manufacturer or importer that is neither (i) a  
 32 participating manufacturer as defined in subsection  
 33 II(jj) of the Master Settlement Agreement as defined  
 34 in Section 10 of the Tobacco Product Manufacturers'

1 Escrow Act nor (ii) in full compliance with Section  
2 32 of this Act and the Tobacco Product  
3 Manufacturers' Escrow Act;

4 (7) an applicant who has imported, or caused to  
5 be imported, into the United States any cigarette in  
6 violation of 19 U.S.C. 1681a;

7 (8) an applicant who has imported, or caused to  
8 be imported, or manufactured for sale or  
9 distribution in the United States any cigarette that  
10 does not fully comply with the Federal Cigarette  
11 Labeling and Advertising Act (15 U.S.C. 1331, et  
12 seq.); or

13 (9) an applicant that is a corporation,  
14 partnership, or other business entity, if any  
15 officer, manager, or director thereof, or any  
16 persons stockholder-or-stockholders owning, directly  
17 or indirectly, in the aggregate, more than 5% of the  
18 ownership interests stock of such entity  
19 corporation, would not be eligible to receive a  
20 license under this Act for any reason.

21 The Department, upon receipt of an application, license  
22 fee and bond in proper form if applicable, from a person who  
23 is eligible to receive a distributor's license under this  
24 Act, shall issue to such applicant a license in form as  
25 prescribed by the Department, which license shall permit the  
26 applicant to which it is issued to engage in business as a  
27 manufacturer, importer, retailer, or distributor at the  
28 Illinois place of business shown in his application, and in  
29 any place of business located outside of Illinois. If the  
30 licensee does not have an Illinois place of business, the  
31 license shall permit the applicant to which it is issued to  
32 engage in business as a manufacturer, importer, retailer, or  
33 distributor, wherever located. All licenses issued by the  
34 Department under this Act shall be valid for not to exceed

1 one year after issuance unless sooner revoked, canceled or  
2 suspended as provided in this Act. No license issued under  
3 this Act is transferable or assignable. Such license shall be  
4 conspicuously displayed in the place of business conducted by  
5 the licensee in Illinois under such license. If the licensee  
6 does not have a place of business in Illinois, the license  
7 shall be conspicuously displayed at the applicant's principal  
8 place of business, wherever located. The Department shall  
9 create and maintain a website setting forth the identity of  
10 all licensed persons under this Section, itemized by type of  
11 license possessed, and shall update the site no less  
12 frequently than once per month.

13 Any person aggrieved by any decision of the Department  
14 under this Section may, within 20 days after notice of the  
15 decision, protest and request a hearing. Upon receiving a  
16 request for a hearing, the Department shall give notice to  
17 the person requesting the hearing of the time and place fixed  
18 for the hearing and shall hold a hearing in conformity with  
19 the provisions of this Act and then issue its final  
20 administrative decision in the matter to that person. In the  
21 absence of a protest and request for a hearing within 20  
22 days, the Department's decision shall become final without  
23 any further determination being made or notice given.

24 (Source: P.A. 91-901, eff. 1-1-01; 92-322, eff. 1-1-02.)

25 (35 ILCS 130/4a) (from Ch. 120, par. 453.4a)

26 Sec. 4a. If a distributor licensee shall be convicted of  
27 the violation of any of the provisions of this Act, or if his  
28 license shall be revoked and no review is had of the order or  
29 revocation, or if on review thereof the decision is adverse  
30 to the distributor licensee, or if a distributor licensee  
31 fails to pay an assessment as to which no judicial review is  
32 sought and which has become final, or pursuant to which, upon  
33 review thereof, the circuit court has entered a judgment that

1 is in favor of the Department and that has become final, the  
 2 bond filed pursuant to this Act shall thereupon be forfeited,  
 3 and the Department may institute a suit upon such bond in its  
 4 own name for the entire amount of such bond and costs. Such  
 5 suit upon the bond shall be in addition to any other remedy  
 6 provided for herein.

7 (Source: P.A. 79-1366.)

8 (35 ILCS 130/4b) (from Ch. 120, par. 453.4b)

9 Sec. 4b. Transactions only with other licensed entities.

10 A manufacturer or importer may sell or distribute cigarettes  
 11 to a person located or doing business within this State only  
 12 if that person is a licensed importer or distributor. An  
 13 importer may obtain cigarettes from a person only if that  
 14 person is a licensed manufacturer. A distributor may sell or  
 15 distribute cigarettes to a person located or doing business  
 16 within this State only if that person is a licensed  
 17 distributor or retailer. A distributor may obtain cigarettes  
 18 only from a licensed manufacturer, importer, or distributor.  
 19 A retailer may obtain cigarettes only from a licensed  
 20 distributor. The--Department--may,--in--its-discretion,--upon  
 21 application,--issue-permits-authorizing-the-payment-of-the-tax  
 22 herein-imposed-by-out-of-State--cigarette--manufacturers--who  
 23 are-not-required-to-be-licensed-as-distributors-of-cigarettes  
 24 in--this--State,--but--who-elect-to-qualify-under-this-Act-as  
 25 distributors-of-cigarettes-in-this-State,--and--who,--to--the  
 26 satisfaction--of-the-Department,--furnish-adequate-security-to  
 27 insure-payment-of-the-tax,--provided--that--any--such--permit  
 28 shall---extend---only--to--cigarettes--which--such--permittee  
 29 manufacturer-places-in-original-packages-that--are--contained  
 30 inside--a--sealed-transparent-wrapper.--Such-permits-shall-be  
 31 issued-without-charge-in-such--form--as--the--Department--may  
 32 prescribe-and-shall-not-be-transferable-or-assignable.

33 The--following--are-ineligible-to-receive-a-distributor's

1 permit under this Act:

2 (1) a person who is not of good character and reputation  
3 in the community in which he resides;

4 (2) a person who has been convicted of a felony under  
5 any Federal or State law, if the Department, after  
6 investigation and a hearing, if requested by the applicant,  
7 determines that such person has not been sufficiently  
8 rehabilitated to warrant the public trust;

9 (3) a corporation, if any officer, manager or director  
10 thereof, or any stockholder or stockholders owning in the  
11 aggregate more than 5% of the stock of such corporation,  
12 would not be eligible to receive a permit under this Act for  
13 any reason.

14 With respect to cigarettes which come within the scope of  
15 such a permit and which any such permittee delivers or causes  
16 to be delivered in Illinois to purchasers, such permittee  
17 shall remit the tax imposed by this Act at the times provided  
18 for in Section 3 of this Act. Each such remittance shall be  
19 accompanied by a return filed with the Department on a form  
20 to be prescribed and furnished by the Department and shall  
21 disclose such information as the Department may lawfully  
22 require. Each such return shall be accompanied by a copy of  
23 each invoice rendered by the permittee to any purchaser to  
24 whom the permittee delivered cigarettes of the type covered  
25 by the permit (or caused cigarettes of the type covered by  
26 the permit to be delivered) in Illinois during the period  
27 covered by such return.

28 Such permit may be suspended, canceled or revoked when,  
29 at any time, the Department considers that the security given  
30 is inadequate, or that such tax can more effectively be  
31 collected from distributors located in this State, or  
32 whenever the permittee violates any provision of this Act or  
33 any lawful rule or regulation issued by the Department  
34 pursuant to this Act or is determined to be ineligible for a

1 distributor's permit under this Act as provided in this  
 2 Section, whenever the permittee shall notify the Department  
 3 in writing of his desire to have the permit canceled. The  
 4 Department shall have the power, in its discretion, to issue  
 5 a new permit after such suspension, cancellation or  
 6 revocation, except when the person who would receive the  
 7 permit is ineligible to receive a distributor's permit under  
 8 this Act.

9 All permits issued by the Department under this Act shall  
 10 be valid for not to exceed one year after issuance unless  
 11 sooner revoked, canceled or suspended as in this Act  
 12 provided.

13 (Source: P.A. 79-387.)

14 (35 ILCS 130/5) (from Ch. 120, par. 453.5)

15 Sec. 5. Printing tax stamps. The Department shall adopt  
 16 the design or designs of the tax stamps or alternative tax  
 17 indicia and shall procure the printing of such stamps or  
 18 alternative tax indicia in such amounts and denominations as  
 19 it deems necessary to provide for the affixation of the  
 20 proper amount of tax stamps or alternative tax indicia to  
 21 each original package of cigarettes. Each roll of stamps or  
 22 alternative tax indicia shall conform to the requirements of  
 23 Section 3.

24 (Source: P.A. 92-322, eff. 1-1-02.)

25 (35 ILCS 130/6) (from Ch. 120, par. 453.6)

26 Sec. 6. Revocation, cancellation, or suspension of  
 27 license. The Department may, after notice and hearing as  
 28 provided for by this Act, revoke, cancel or suspend the  
 29 license of any manufacturer, importer, retailer, or  
 30 distributor for the violation of any provision of this Act,  
 31 or for noncompliance with any provision herein contained, or  
 32 for any noncompliance with any lawful rule or regulation



1 promulgated by the Department under Section 8 of this Act, or  
2 because the licensee is determined to be ineligible for a  
3 distributor's license for any one or more of the reasons  
4 provided for in Section 4 of this Act. However, no such  
5 license shall be revoked, cancelled or suspended, except  
6 after a hearing by the Department with notice to the licensee  
7 distributor, as aforesaid, and affording such licensee  
8 distributor a reasonable opportunity to appear and defend,  
9 and any licensee distributor aggrieved by any decision of the  
10 Department with respect thereto may have the determination of  
11 the Department judicially reviewed, as herein provided.

12 The Department may revoke, cancel, or suspend the license  
13 of any distributor for a violation of the Tobacco Product  
14 Manufacturers' Escrow Enforcement Act as provided in Section  
15 20 of that Act.

16 Any licensee distributor aggrieved by any decision of the  
17 Department under this Section may, within 20 days after  
18 notice of the decision, protest and request a hearing. Upon  
19 receiving a request for a hearing, the Department shall give  
20 notice in writing to the licensee distributor requesting the  
21 hearing that contains a statement of the charges preferred  
22 against the licensee distributor and that states the time and  
23 place fixed for the hearing. The Department shall hold the  
24 hearing in conformity with the provisions of this Act and  
25 then issue its final administrative decision in the matter to  
26 the licensee distributor. In the absence of a protest and  
27 request for a hearing within 20 days, the Department's  
28 decision shall become final without any further determination  
29 being made or notice given.

30 No license so revoked, as aforesaid, shall be reissued to  
31 any such licensee distributor within a period of 6 months  
32 after the date of the final determination of such revocation.  
33 No such license shall be reissued at all so long as the  
34 person who would receive the license is ineligible to receive

1 a distributor's license under this Act for any one or more of  
2 the reasons provided for in Section 4 of this Act.

3 The Department upon complaint filed in the circuit court  
4 may by injunction restrain any person who fails, or refuses,  
5 to comply with any of the provisions of this Act from acting  
6 as a distributor of cigarettes in this State.

7 (Source: P.A. 91-901, eff. 1-1-01; 92-737, eff. 7-25-02.)

8 (35 ILCS 130/7) (from Ch. 120, par. 453.7)

9 Sec. 7. The Department or any officer or employee of the  
10 Department designated, in writing, by the Director thereof,  
11 shall at its or his or her own instance, or on the written  
12 request of any licensee distributor or other interested party  
13 to the proceeding, issue subpoenas requiring the attendance  
14 of and the giving of testimony by witnesses, and subpoenas  
15 duces tecum requiring the production of books, papers,  
16 records or memoranda. All subpoenas and subpoenas duces tecum  
17 issued under the terms of this Act may be served by any  
18 person of full age. The fees of witnesses for attendance and  
19 travel shall be the same as the fees of witnesses before the  
20 circuit court of this State; such fees to be paid when the  
21 witness is excused from further attendance. When the witness  
22 is subpoenaed at the instance of the Department or any  
23 officer or employee thereof, such fees shall be paid in the  
24 same manner as other expenses of the Department, and when the  
25 witness is subpoenaed at the instance of any other party to  
26 any such proceeding, the cost of service of the subpoena or  
27 subpoena duces tecum and the fee of the witness shall be  
28 borne by the party at whose instance the witness is summoned.  
29 In such case the Department, in its discretion, may require a  
30 deposit to cover the cost of such service and witness fees. A  
31 subpoena or subpoena duces tecum so issued shall be served in  
32 the same manner as a subpoena or subpoena duces tecum issued  
33 out of a court.

1 Any circuit court of this State, upon the application of  
2 the Department or any officer or employee thereof, or upon  
3 the application of any other party to the proceeding, may, in  
4 its discretion, compel the attendance of witnesses, the  
5 production of books, papers, records or memoranda and the  
6 giving of testimony before the Department or any officer or  
7 employee thereof conducting an investigation or holding a  
8 hearing authorized by this Act, by an attachment for  
9 contempt, or otherwise, in the same manner as production of  
10 evidence may be compelled before the court.

11 The Department or any officer or employee thereof, or any  
12 other party in an investigation or hearing before the  
13 Department, may cause the depositions of witnesses within the  
14 State to be taken in the manner prescribed by law for like  
15 depositions, or depositions for discovery in civil actions in  
16 courts of this State, and to that end compel the attendance  
17 of witnesses and the production of books, papers, records or  
18 memoranda, in the same manner hereinbefore provided.

19 (Source: P.A. 83-334.)

20 (35 ILCS 130/9) (from Ch. 120, par. 453.9)

21 Sec. 9. Reports.

22 (a) In General. Distributors and retailers shall submit  
23 to the Department monthly reports setting forth the following  
24 information, itemized or submitted separately for each of  
25 their places of business:

26 (1) the quantities of cigarettes, by brand style, on  
27 hand both at the beginning and end of the reporting  
28 period;

29 (2) the quantities of cigarettes, by brand style and  
30 transaction, that were received during the reporting  
31 period and the name and address of each person from whom  
32 those products were received; and

33 (3) the quantities of cigarettes, by brand style and

1 transaction, distributed or shipped during the reporting  
2 period (other than sales directly to consumers) and the  
3 name and address of each person to whom those products  
4 were distributed or shipped.

5 (b) Manufacturers and importers. Manufacturers and  
6 importers shipping cigarettes into or within this State shall  
7 file a monthly report with the Department regarding those  
8 cigarettes containing the information set forth in subsection  
9 (a) of this Section.

10 (c) Tax stamps. Distributor reports submitted pursuant to  
11 subsection (a) shall be further itemized to disclose the  
12 quantity of reported cigarettes bearing tax stamps of this  
13 State, tax-exempt stamps of this State, stamps of another  
14 state, and unstamped cigarettes. The distributor reports also  
15 shall include, if applicable, the quantity of Illinois tax  
16 and tax-exempt stamps that were not affixed to cigarettes and  
17 that were on hand at the beginning and end of the reporting  
18 period, the quantity of each type of Illinois stamp received  
19 during the reporting period, and the quantity of each type of  
20 Illinois stamp applied during the reporting period.  
21 Distributors who sell cigarettes into both this State and  
22 other states shall itemize this report to separately indicate  
23 sales into the State of Illinois.

24 (d) Rules. The Department may adopt rules requiring such  
25 additional information in the monthly reports as it may  
26 determine is necessary or appropriate for purposes of  
27 enforcing the provisions of this Act.

28 (e) Access to reports by general public. Reports  
29 submitted by licensees shall be subject to public disclosure  
30 as provided under applicable law. In no case, however, shall  
31 information about quantities of cigarettes by brand be  
32 released to anyone other than those permitted access to  
33 records and reports under Section 11. Returns;--remittance.  
34 Every--distributor-who-is-required-to-procure-a-license-under

1 this Act, but who is not a manufacturer of cigarettes in  
2 original packages which are contained in a sealed transparent  
3 wrapper, shall, on or before the 15th day of each calendar  
4 month, file a return with the Department, showing the  
5 quantity of cigarettes manufactured during the preceding  
6 calendar month, the quantity of cigarettes brought into this  
7 State or caused to be brought into this State from outside  
8 this State during the preceding calendar month without  
9 authorized evidence on the original packages of such  
10 cigarettes underneath the sealed transparent wrapper thereof  
11 that the tax liability imposed by this Act has been assumed  
12 by the out-of-State seller of such cigarettes, the quantity  
13 of cigarettes purchased tax paid during the preceding  
14 calendar month either within or outside this State, and the  
15 quantity of cigarettes sold or otherwise disposed of during  
16 the preceding calendar month. Such return shall be filed upon  
17 forms furnished and prescribed by the Department and shall  
18 contain such other information as the Department may  
19 reasonably require. The Department may promulgate rules to  
20 require that the distributor's return be accompanied by  
21 appropriate computer-generated magnetic media supporting  
22 schedule data in the format required by the Department,  
23 unless, as provided by rule, the Department grants an  
24 exception upon petition of a distributor.

25 Illinois manufacturers of cigarettes in original packages  
26 which are contained inside a sealed transparent wrapper shall  
27 file a return by the 5th day of each month covering the  
28 preceding calendar month. Each such return shall be  
29 accompanied by the appropriate remittance for tax as provided  
30 in the last paragraph of Section 3 of this Act. Each such  
31 return shall show the quantity of such cigarettes  
32 manufactured during the period covered by the return, the  
33 quantity of cigarettes sold or otherwise disposed of during  
34 the period covered by the return and such other information

1 as-the-Department-may-lawfully-require.-Such-returns-shall-be  
 2 filed--on--forms--prescribed-and-furnished-by-the-Department.  
 3 Each-such-return-shall-be--accompanied--by--a--copy--of--each  
 4 invoice--rendered--by--such--manufacturer-to-any-purchaser-to  
 5 whom--such--manufacturer--delivered--cigarettes--(or--caused  
 6 cigarettes--to-be-delivered)-during-the-period-covered-by-the  
 7 return.-The-Department-may-promulgate-rules-to--require--that  
 8 the--manufacturer's--return--be--accompanied--by--appropriate  
 9 computer-generated-magnetic-media-supporting-schedule-data-in  
 10 the-format-required-by-the-Department,-unless,-as-provided-by  
 11 rule,-the-Department-grants-an-exception-upon-petition-of-a  
 12 manufacturer.

13 (Source: P.A. 92-322, eff. 1-1-02.)

14 (35 ILCS 130/9a) (from Ch. 120, par. 453.9a)

15 Sec. 9a. Declaration of possession on cigarettes on  
 16 which tax not paid.

17 (a) In the event that unstamped cigarettes are acquired  
 18 by a consumer for use, storage, or consumption in this State,  
 19 that consumer, within 30 days after acquiring the cigarettes,  
 20 shall file with the Department a consumer return declaring  
 21 the possession of the cigarettes and shall transmit with the  
 22 consumer return to the Department the tax imposed by this  
 23 Act.

24 (b) The consumer return referred to in subsection (a)  
 25 shall contain the name and address of the person possessing  
 26 the cigarettes involved, the location of the cigarettes, and  
 27 the quantity, brand name, place, and date of the acquisition  
 28 of the cigarettes.

29 (c) The filing of a consumer return and the payment of  
 30 tax under this Section shall not relieve the consumer or any  
 31 other person of liability for any civil or criminal penalties  
 32 as may be provided under this Act. Examination-and-correction  
 33 of-returns.

1 (1) As soon as practicable after any return is filed,  
2 the Department shall examine such return and shall correct  
3 such return according to its best judgment and information,  
4 which return so corrected by the Department shall be prima  
5 facie correct and shall be prima facie evidence of the  
6 correctness of the amount of tax due, as shown therein.  
7 Instead of requiring the distributor to file an amended  
8 return, the Department may simply notify the distributor of  
9 the correction or corrections it has made. Proof of such  
10 correction by the Department may be made at any hearing  
11 before the Department or in any legal proceeding by a  
12 reproduced copy of the Department's record relating thereto  
13 in the name of the Department under the certificate of the  
14 Director of Revenue. Such reproduced copy shall, without  
15 further proof, be admitted into evidence before the  
16 Department or in any legal proceeding and shall be prima  
17 facie proof of the correctness of the amount of tax due, as  
18 shown therein. If the Department finds that any amount of tax  
19 is due from the distributor, the Department shall issue the  
20 distributor a notice of tax liability for the amount of tax  
21 claimed by the Department to be due, together with a penalty  
22 in an amount determined in accordance with Sections 3-3, 3-5  
23 and 3-6 of the Uniform Penalty and Interest Act. If, in  
24 administering the provisions of this Act, comparison of a  
25 return or returns of a distributor with the books, records  
26 and inventories of such distributor discloses a deficiency  
27 which cannot be allocated by the Department to a particular  
28 month or months, the Department shall issue the distributor a  
29 notice of tax liability for the amount of tax claimed by the  
30 Department to be due for a given period, but without any  
31 obligation upon the Department to allocate such deficiency to  
32 any particular month or months, together with a penalty in an  
33 amount determined in accordance with Sections 3-3, 3-5 and  
34 3-6 of the Uniform Penalty and Interest Act, under which

1 circumstances--the-aforesaid-notice-of-tax-liability-shall-be  
2 prima-facie-correct-and-shall-be-prima-facie-evidence-of--the  
3 correctness--of--the-amount-of-tax-due,--as-shown-therein;-and  
4 proof-of-such-correctness-may-be-made-in-accordance-with,--and  
5 the-admissibility-of-a-reproduced-copy-of-such-notice-of--tax  
6 liability--shall--be--governed-by,--all-the-provisions-of-this  
7 Act-applicable--to--corrected--returns.--If--any--distributor  
8 filing--any--return--dies--or--becomes--a--person-under-legal  
9 disability-at-any--time--before--the--Department--issues--its  
10 notice--of--tax-liability,--such-notice-shall-be-issued-to-the  
11 administrator,--executor-or--other--legal--representative,--as  
12 such,--of-such-distributor.

13 (2)--If,--within--60--days--after--such--notice--of--tax  
14 liability,--the-distributor-or-his-or-her-legal-representative  
15 files-a-protest-to-such-notice-of-tax-liability-and--requests  
16 a--hearing--thereon,--the-Department-shall-give-notice-to-such  
17 distributor-or-legal-representative-of--the--time--and--place  
18 fixed---for--such--hearing,--and--shall--hold--a--hearing--in  
19 conformity-with-the-provisions--of--this--Act,--and--pursuant  
20 thereto-shall-issue-a-final-assessment-to-such-distributor-or  
21 legal--representative--for--the--amount--found-to-be-due-as-a  
22 result-of-such-hearing.-If-a-protest-to--the--notice--of--tax  
23 liability--and--a--request-for-a-hearing-thereon-is-not-filed  
24 within-60-days-after--such--notice--of--tax--liability,--such  
25 notice--of--tax--liability--shall--become--final--without-the  
26 necessity-of-a-final-assessment-being--issued--and--shall--be  
27 deemed-to-be-a-final-assessment.

28 (3)--In--case--of--failure-to-pay-the-tax,--or-any-portion  
29 thereof,--or-any-penalty-provided-for-in-this-Act,--when--due,--  
30 the--Department--may-bring-suit-to-recover-the-amount-of-such  
31 tax,--or-portion-thereof,--or-penalty;-or,--if-the-taxpayer-dies  
32 or-becomes-incompetent,--by-filing-claim-therfor-against--his  
33 estate;-provided-that-no-such-action-with-respect-to-any-tax,  
34 or-portion-thereof,--or-penalty,--shall-be-instituted-more-than



1 2--years--after--the-cause-of-action-accrues,--except-with-the  
2 consent-of-the-person-from-whom-such-tax-or-penalty-is-due.

3 After-the-expiration--of--the--period--within--which--the  
4 person--assessed-may-file-an-action-for-judicial-review-under  
5 the-Administrative-Review-Law-without-such--an--action--being  
6 filed,--a--certified--copy-of-the-final-assessment-or-revised  
7 final-assessment-of-the-Department--may--be--filed--with--the  
8 Circuit--Court-of-the-county-in-which-the-taxpayer-has-his-or  
9 her-principal-place-of-business,--or--of--Sangamon--County--in  
10 those-cases-in-which-the-taxpayer-does-not-have-his-principal  
11 place--of--business--in-this-State.-The-certified-copy-of-the  
12 final--assessment--or--revised--final--assessment--shall--be  
13 accompanied--by--a-certification-which-recites-facts-that-are  
14 sufficient-to-show-that--the--Department--complied--with--the  
15 jurisdictional--requirements--of--the--Law-in-arriving-at-its  
16 final-assessment-or-its-revised-final-assessment-and-that-the  
17 taxpayer-had-his-or-her--opportunity--for--an--administrative  
18 hearing--and--for-judicial-review,--whether-he-availed-himself  
19 or-herself-of-either-or-both-of-these-opportunities--or--not.  
20 If--the--court-is-satisfied-that-the-Department-complied-with  
21 the-jurisdictional-requirements-of-the-Law-in-arriving-at-its  
22 final-assessment-or-its-revised-final-assessment-and-that-the  
23 taxpayer-had-his-or-her--opportunity--for--an--administrative  
24 hearing--and--for--judicial-review,--whether-he-or-she-availed  
25 himself-or-herself-of-either-or-both-of--these--opportunities  
26 or--not,--the--court--shall--enter--judgment--in-favor-of-the  
27 Department-and-against-the-taxpayer-for-the-amount--shown--to  
28 be--due--by--the--final--assessment--or--the--revised--final  
29 assessment,--and-such-judgment-shall-be-filed-of-record-in-the  
30 court.--Such-judgment-shall-bear-the-rate-of-interest-set--in  
31 the--Uniform--Penalty--and--Interest-Act,--but-otherwise-shall  
32 have-the-same-effect-as-other-judgments.--The-judgment-may-be  
33 enforced,--and--all--laws--applicable--to--sales---for---the  
34 enforcement--of--a-judgment-shall-be-applicable-to-sales-made

1 under such judgments. The Department shall file the certified  
2 copy of its assessment, as herein provided, with the Circuit  
3 Court within 2 years after such assessment becomes final  
4 except when the taxpayer consents in writing to an extension  
5 of such filing period.

6 If, when the cause of action for a proceeding in court  
7 accrues against a person, he or she is out of the State, the  
8 action may be commenced within the times herein limited,  
9 after his or her coming into or return to the State; and if,  
10 after the cause of action accrues, he or she departs from and  
11 remains out of the State, the time of his or her absence is  
12 no part of the time limited for the commencement of the  
13 action; but the foregoing provisions concerning absence from  
14 the State shall not apply to any case in which, at the time  
15 the cause of action accrues, the party against whom the cause  
16 of action accrues is not a resident of this State. The time  
17 within which a court action is to be commenced by the  
18 Department hereunder shall not run while the taxpayer is a  
19 debtor in any proceeding under the Federal Bankruptcy Act nor  
20 thereafter until 90 days after the Department is notified by  
21 such debtor of being discharged in bankruptcy.

22 No claim shall be filed against the estate of any  
23 deceased person or a person under legal disability for any  
24 tax or penalty or part of either except in the manner  
25 prescribed and within the time limited by the Probate Act of  
26 1975, as amended.

27 The remedies provided for herein shall not be exclusive,  
28 but all remedies available to creditors for the collection of  
29 debts shall be available for the collection of any tax or  
30 penalty due hereunder.

31 The collection of tax or penalty by any means provided  
32 for herein shall not be a bar to any prosecution under this  
33 Act.

34 The certificate of the Director of the Department to the

1 effect-that-a-tax-or-amount-required-to-be-paid-by--this--Act  
 2 has--not-been-paid,-that-a-return-has-not-been-filed,-or-that  
 3 information-has-not-been-supplied-pursuant-to-the--provisions  
 4 of-this-Act,-shall-be-prima-facie-evidence-thereof.

5 All-of-the-provisions-of-Sections-5a,-5b,-5c,-5d,-5e,-5f,  
 6 5g,-5i-and-5j-of-the-Retailers'-Occupation-Tax-Act,-which-are  
 7 not--inconsistent--with--this--Act,-and--Section--3-7-of-the  
 8 Uniform-Penalty-and-Interest--Act--shall--apply,-as--far--as  
 9 practicable,-to--the--subject-matter-of-this-Act-to-the-same  
 10 extent-as-if-such-provisions-were-included-herein.-References  
 11 in-such-incorporated-Sections-of-the--"Retailers'-Occupation  
 12 Tax--Act"--to--retailers,-to-sellers-or-to-persons-engaged-in  
 13 the-business-of-selling-tangible-personal-property-shall-mean  
 14 distributors-when-used-in-this-Act.

15 (Source: P.A. 92-322, eff. 1-1-02.)

16 (35 ILCS 130/9c) (from Ch. 120, par. 453.9c)

17 Sec. 9c. "Transporter" means any person transporting  
 18 into or within this State original packages of cigarettes  
 19 which are not tax stamped as required by this Act, except:

20 (a) A person transporting into this State unstamped  
 21 original packages containing a total of not more than 500  
 22 2000 cigarettes in any single lot or shipment;

23 (b) a licensed cigarette distributor in compliance with  
 24 Section 3, a licensed manufacturer, or a licensed importer  
 25 under this Act;

26 (c) a common carrier;

27 (d) a person transporting cigarettes under Federal  
 28 internal bond or custom control that are non-tax paid under  
 29 Chapter 52 of the Internal Revenue Code of 1954, as amended;

30 (e) a person engaged in transporting cigarettes to a  
 31 cigarette dealer who is properly licensed as a distributor  
 32 under the Illinois Cigarette Tax Act or--the--Illinois  
 33 Cigarette--Use-Tax-Act, or under the laws of any other state,

1 and who has in his possession during the course of  
2 transporting such cigarettes a bill of lading, waybill, or  
3 other similar commercial document which was issued by or for  
4 a manufacturer of cigarettes who holds a valid permit as a  
5 cigarette manufacturer under Chapter 52, Internal Revenue  
6 Code of 1954, as subsequently amended, and which shows that  
7 the cigarettes are being transported by or at the direction  
8 of such manufacturer to such licensed cigarette dealer.

9 Any transporter desiring to possess or acquire for  
10 transportation or transport upon the highways, roads or  
11 streets of this State more than 500 ~~2000~~ cigarettes which are  
12 not contained in original packages that are Illinois tax  
13 stamped shall obtain a permit from the Department authorizing  
14 such transporter to possess or acquire for transportation or  
15 transport the cigarettes, and he shall have the permit in the  
16 transporting vehicle during the period of transportation of  
17 the cigarettes. The application for the permit shall be in  
18 such form and shall contain such information as may be  
19 prescribed by the Department. The Department may issue a  
20 permit for a single load or shipment or for a number of loads  
21 or shipments to be transported under specified conditions.

22 Any transporter who ships unstamped cigarette packages  
23 within or into this State other than to a licensed  
24 manufacturer, importer, or distributor shall first file with  
25 the Department notice of the shipment.

26 Any person bringing into or conveying within this State  
27 original packages of cigarettes that are not tax stamped as  
28 required by this Act shall carry, in the vehicle used to  
29 convey the shipment, invoices or equivalent documentation of  
30 the shipment for all cigarettes in the shipment. The invoices  
31 or documentation shall show the true name and address of the  
32 consignor or seller, the true name and address of the  
33 consignee or purchaser, and the quantity and brands of the  
34 cigarettes so transported.

1 Any cigarettes transported on the highways, roads or  
2 streets of this State under conditions which violate any  
3 requirement of this Section, and the vehicle containing such  
4 cigarettes, are subject to seizure by the Department, and to  
5 confiscation and forfeiture in the same manner as is provided  
6 for in Section 18a of this Act. Any such confiscated and  
7 forfeited property shall be sold or destroyed in the same  
8 manner and under the same conditions as provided for in  
9 Section 21 of this Act, with the proceeds from any such sale  
10 being deposited in the State Treasury.

11 Any person who violates any requirement of this Section  
12 is guilty of a Class 4 felony.

13 Any transporter who, with intent to defeat or evade or  
14 with intent to aid another to defeat or evade the tax imposed  
15 by this Act, at any given time, transports 40,000 or more  
16 cigarettes upon the highways, roads or streets of this State  
17 under conditions which violate any requirement of this  
18 Section shall be guilty of a Class 3 felony.

19 (Source: P.A. 83-1428.)

20 (35 ILCS 130/9d) (from Ch. 120, par. 453.9d)

21 Sec. 9d. If it appears, after claim therefor filed with  
22 the Department, that an amount of tax or penalty has been  
23 paid which was not due under this Act, whether as the result  
24 of a mistake of fact or an error of law, except as  
25 hereinafter provided, then the Department shall issue a  
26 credit memorandum or refund to the person who made the  
27 erroneous payment or, if that person has died or become a  
28 person under legal disability, to his or her legal  
29 representative, as such.

30 If it is determined that the Department should issue a  
31 credit or refund under this Act, the Department may first  
32 apply the amount thereof against any amount of tax or penalty  
33 due under this Act ~~or under the Cigarette Use Tax Act~~ from

1 the person entitled to such credit or refund. For this  
2 purpose, if proceedings are pending to determine whether or  
3 not any tax or penalty is due under this Act ~~or--under--the~~  
4 ~~Cigarette--Use--Tax--Act~~ from such person, the Department may  
5 withhold issuance of the credit or refund pending the final  
6 disposition of such proceedings and may apply such credit or  
7 refund against any amount found to be due to the Department  
8 under this Act ~~or--under--the--Cigarette--Use--Tax--Act~~ as a result  
9 of such proceedings. The balance, if any, of the credit or  
10 refund shall be issued to the person entitled thereto.

11 If no tax or penalty is due and no proceeding is pending  
12 to determine whether such taxpayer is indebted to the  
13 Department for tax or penalty, the credit memorandum or  
14 refund shall be issued to the claimant; or (in the case of a  
15 credit memorandum) the credit memorandum may be assigned and  
16 set over by the lawful holder thereof, subject to reasonable  
17 rules of the Department, to any other person who is subject  
18 to this Act ~~or--the--Cigarette--Use--Tax--Act~~, and the amount  
19 thereof shall be applied by the Department against any tax or  
20 penalty due or to become due under this Act ~~or--under--the~~  
21 ~~Cigarette--Use--Tax--Act~~ from such assignee.

22 As to any claim filed hereunder with the Department on  
23 and after each January 1 and July 1, no amount of tax or  
24 penalty erroneously paid (either in total or partial  
25 liquidation of a tax or penalty under this Act) more than 3  
26 years prior to such January 1 and July 1, respectively, shall  
27 be credited or refunded, except that if both the Department  
28 and the taxpayer have agreed to an extension of time to issue  
29 a notice of tax liability under this Act, the claim may be  
30 filed at any time prior to the expiration of the period  
31 agreed upon.

32 If the Department approves a claim for stamps affixed to  
33 a product returned to a manufacturer or for replacement of  
34 stamps, the credit memorandum shall not exceed the face value

1 of stamps originally affixed, and replacement stamps shall be  
2 issued only in an amount equal to the value of the stamps  
3 previously affixed. Higher denomination stamps shall not be  
4 issued as replacements for lower value stamps. Distributors  
5 must prove the face value of the stamps which have been  
6 destroyed or returned to manufacturers when filing claims.

7 Any credit or refund that is allowed under this Act shall  
8 bear interest at the rate and in the manner set forth in the  
9 Uniform Penalty and Interest Act.

10 In case the Department determines that the claimant is  
11 entitled to a refund, such refund shall be made only from  
12 such appropriation as may be available for that purpose. If  
13 it appears unlikely that the amount appropriated would permit  
14 everyone having a claim allowed during the period covered by  
15 such appropriation to elect to receive a cash refund, the  
16 Department, by rule or regulation, shall provide for the  
17 payment of refunds in hardship cases and shall define what  
18 types of cases qualify as hardship cases.

19 If the Department approves a claim for the physical  
20 replacement of cigarette tax stamps, the Department (subject  
21 to the same limitations as those provided for hereinbefore in  
22 this Section) may issue an assignable credit memorandum or  
23 refund to the claimant or to the claimant's legal  
24 representative.

25 The provisions of Sections 6a, 6b and 6c of the  
26 Retailers' Occupation Tax Act which are not inconsistent with  
27 this Act, shall apply, as far as practicable, to the subject  
28 matter of this Act to the same extent as if such provisions  
29 were included herein.

30 (Source: P.A. 90-491, eff. 1-1-98.)

31 (35 ILCS 130/10b) (from Ch. 120, par. 453.10b)

32 Sec. 10b. All information received by the Department  
33 from reports or consumer returns filed under this Act, or

1 from any investigation conducted under this Act, shall be  
2 confidential, except for official purposes, and any person  
3 who divulges any such information in any manner, except in  
4 accordance with a proper judicial order or as otherwise  
5 provided by law, shall be guilty of a Class A misdemeanor.

6 Nothing in this Act prevents the Director of Revenue from  
7 publishing or making available to the public the names and  
8 addresses of persons filing reports or consumer returns under  
9 this Act, or reasonable statistics concerning the operation  
10 of the tax by grouping the contents of reports or consumer  
11 returns so that the information in any individual report or  
12 consumer return is not disclosed.

13 Nothing in this Act prevents the Director of Revenue from  
14 divulging to the United States Government or the government  
15 of any other state, or any officer or agency thereof, for  
16 exclusively official purposes, information received by the  
17 Department in administering this Act, provided that such  
18 other governmental agency agrees to divulge requested tax  
19 information to the Department.

20 The furnishing upon request of the Auditor General, or  
21 his authorized agents, for official use, of reports or  
22 consumer returns filed and information related thereto under  
23 this Act is deemed to be an official purpose within the  
24 meaning of this Section.

25 The furnishing of financial information to a home rule  
26 unit with a population in excess of 2,000,000 that has  
27 imposed a tax similar to that imposed by this Act under its  
28 home rule powers, upon request of the Chief Executive of the  
29 home rule unit, is an official purpose within the meaning of  
30 this Section, provided the home rule unit agrees in writing  
31 to the requirements of this Section. Information so provided  
32 is subject to all confidentiality provisions of this Section.  
33 The written agreement shall provide for reciprocity,  
34 limitations on access, disclosure, and procedures for



1 requesting information.

2 The Director may make available to any State agency,  
3 including the Illinois Supreme Court, which licenses persons  
4 to engage in any occupation, information that a person  
5 licensed by such agency has failed to file reports or pay the  
6 tax returns under this Act ~~or--pay--the-tax, penalty and~~  
7 ~~interest shown therein, or has failed to pay any final~~  
8 ~~assessment of tax, penalty or interest due under this Act.~~  
9 ~~An assessment is final when all proceedings in court for~~  
10 ~~review of such assessment have terminated or the time for the~~  
11 ~~taking thereof has expired without such proceedings being~~  
12 ~~instituted.~~

13 The Director shall make available for public inspection  
14 in the Department's principal office and for publication, at  
15 cost, administrative decisions issued on or after January 1,  
16 1995. These decisions are to be made available in a manner so  
17 that the following taxpayer information is not disclosed:

18 (1) The names, addresses, and identification  
19 numbers of the taxpayer, related entities, and employees.

20 (2) At the sole discretion of the Director, trade  
21 secrets or other confidential information identified as  
22 such by the taxpayer, no later than 30 days after receipt  
23 of an administrative decision, by such means as the  
24 Department shall provide by rule.

25 The Director shall determine the appropriate extent of  
26 the deletions allowed in paragraph (2). In the event the  
27 taxpayer does not submit deletions, the Director shall make  
28 only the deletions specified in paragraph (1).

29 The Director shall make available for public inspection  
30 and publication an administrative decision within 180 days  
31 after the issuance of the administrative decision. The term  
32 "administrative decision" has the same meaning as defined in  
33 Section 3-101 of Article III of the Code of Civil Procedure.  
34 Costs collected under this Section shall be paid into the Tax

1 Compliance and Administration Fund.

2 Nothing contained in this Act shall prevent the Director  
3 from divulging information to any person pursuant to a  
4 request or authorization made by the taxpayer or by an  
5 authorized representative of the taxpayer.

6 (Source: P.A. 90-491, eff. 1-1-98.)

7 (35 ILCS 130/11) (from Ch. 120, par. 453.11)

8 Sec. 11. Records to be kept by manufacturers, retailers,  
9 and distributors; inspection; revocation of license.

10 (a) Every manufacturer, retailer, importer, and  
11 distributor of cigarettes,--who--is--required--to--procure--a  
12 license--under--this--Act, shall keep within--Illinois,--at--his  
13 licensed--address, complete and accurate records of cigarettes  
14 held, purchased, manufactured, brought in or caused to be  
15 brought in from without the State, and sold, or otherwise  
16 disposed of (other than in a retail transaction with a  
17 consumer), and shall preserve and keep within--Illinois--at--his  
18 licensed--address all invoices, bills of lading, sales  
19 records, copies of bills of sale, inventory at the close of  
20 each period for which a return is required of all cigarettes  
21 on hand and of all cigarette revenue stamps, both affixed and  
22 unaffixed, and other pertinent papers and documents relating  
23 to the manufacture, purchase, sale or disposition of  
24 cigarettes. The invoices or documentation shall show the name  
25 and address of the other party and the quantity by brand  
26 style of the cigarettes involved in the transaction.

27 (b) Records required under this Section shall be  
28 preserved on the premises described in the relevant license  
29 in such manner as to ensure permanency and accessibility for  
30 inspection. With the Department's permission, persons with  
31 multiple places of business may retain centralized records,  
32 but shall transmit duplicates of the invoices of the  
33 equivalent documentation to each place of business within 24

1 hours upon the request of the Department or its duly  
2 authorized agents and employees.

3 (c) All books and records and other papers and documents  
4 that are required by this Act to be kept shall be kept in the  
5 English language, and shall, at all times during the usual  
6 business hours of the day, be subject to inspection by the  
7 Department or its duly authorized agents and employees, and  
8 by the United States Secretary of the Treasury or his or her  
9 duly authorized agents and employees. The Department at its  
10 sole discretion may share the records and reports required by  
11 this Section with other law enforcement officials of the  
12 federal government or other states. The Department may adopt  
13 rules that establish requirements, including record forms and  
14 formats, for records required to be kept and maintained by  
15 licensees taxpayers. For purposes of this Section, "records"  
16 means all data maintained by the licensee taxpayer, including  
17 data on paper, microfilm, microfiche or any type of  
18 machine-sensible data compilation. Those books, records,  
19 papers and documents shall be preserved for a period of at  
20 least 5 3 years after the date of the documents, or the date  
21 of the entries appearing in the records, ~~unless the~~  
22 ~~Department, in writing, authorizes their destruction or~~  
23 ~~disposal at an earlier date.~~

24 (d) At all times during the usual business hours of the  
25 day any duly authorized agent or employee of the Department  
26 may enter any place of business of the manufacturer,  
27 retailer, importer, or distributor, without a search warrant,  
28 and inspect the records and premises and the stock or  
29 packages of cigarettes and the vending devices therein  
30 contained, to determine whether any of the provisions of this  
31 Act are being violated. If such agent or employee is denied  
32 free access or is hindered or interfered with in making such  
33 examination as herein provided, the license of the  
34 distributor at such premises shall be subject to revocation

1 by the Department.

2 (e) In any case where the Department or its duly  
3 authorized agent or employee, or any peace officer of the  
4 State, has knowledge or reasonable grounds to believe that  
5 any vehicle is transporting cigarettes in violation of this  
6 Act, the Department, its agent or employee, or the peace  
7 officer, is authorized to stop the vehicle and inspect it for  
8 contraband cigarettes.

9 (Source: P.A. 88-480.)

10 (35 ILCS 130/13) (from Ch. 120, par. 453.13)

11 Sec. 13. Whenever any original package of cigarettes is  
12 found in the place of business or in the possession of any  
13 person who is not a licensed distributor under this Act  
14 without proper stamps affixed thereto, or an authorized  
15 substitute therefor imprinted thereon, underneath-the--sealed  
16 transparent--wrapper-of-such-original-package, as required by  
17 this Act, the prima facie presumption shall arise that such  
18 original package of cigarettes is kept therein or is held by  
19 such person in violation of the provisions of this Act.

20 (Source: Laws 1953, p. 255.)

21 (35 ILCS 130/13a new)

22 Sec. 13a. Failure to pay tax; punishment. Any person who,  
23 with intent to defraud the State, refuses to pay any tax  
24 imposed by this Act or attempts in any manner to evade or  
25 defeat the tax or the payment thereof shall be guilty of a  
26 Class 3 felony and, in addition to any term of imprisonment,  
27 may be fined up to \$10,000 or 5 times the retail value of the  
28 cigarettes involved, whichever is greater.

29 (35 ILCS 130/14) (from Ch. 120, par. 453.14)

30 Sec. 14. Any person required by this Act to keep records  
31 of any kind whatsoever, who shall fail to keep the records so

1 required or who shall falsify such records, shall be guilty  
2 of a Class 4 felony, and in addition to any term of  
3 imprisonment, may be fined up to \$10,000 or 5 times the  
4 retail value of the cigarettes involved, whichever is  
5 greater.

6 (Source: P.A. 83-1428.)

7 (35 ILCS 130/15) (from Ch. 120, par. 453.15)

8 Sec. 15. Any person who shall fail to safely preserve  
9 the records required by Section 11 of this Act for the period  
10 of three years, as required therein, in such manner as to  
11 insure permanency and accessibility for inspection by the  
12 Department, shall be guilty of a Class A misdemeanor business  
13 offense and, in addition to any term of imprisonment, may be  
14 fined up to \$5,000.

15 (Source: P.A. 88-88.)

16 (35 ILCS 130/15a new)

17 Sec. 15a. Failure to comply with Act with intent to  
18 defraud; punishment. Any person who fails to comply with any  
19 requirements of this Act, with the intent to defraud the  
20 State, is guilty of a Class 3 felony and, in addition to any  
21 term of imprisonment, may be fined up to \$10,000 or 5 times  
22 the retail value of the cigarettes involved, whichever is  
23 greater.

24 (35 ILCS 130/15b new)

25 Sec. 15b. Failure to comply with Act; punishment. Any  
26 person who knowingly fails to comply with any requirements of  
27 this Act or of rules adopted under the Act shall, for each  
28 such offense, be fined not more than \$5,000 or imprisoned not  
29 more than 1 year or both.

30 (35 ILCS 130/18) (from Ch. 120, par. 453.18)

1           Sec. 18. Any duly authorized employee of the Department  
2 may arrest without warrant any person committing in his  
3 presence a violation of any of the provisions of this Act,  
4 and may without a search warrant inspect all cigarettes  
5 located in any place of business and seize any original  
6 packages not tax stamped or tax imprinted underneath-the  
7 ~~sealed-transparent-wrapper-of-such-original-packages~~ in  
8 accordance with the provisions of this Act and any vending  
9 device in which such packages may be found, and such original  
10 packages or vending devices so seized shall be subject to  
11 confiscation and forfeiture as hereinafter provided.

12       (Source: P.A. 82-1009.)

13           (35 ILCS 130/18a) (from Ch. 120, par. 453.18a)

14           Sec. 18a. After seizing any original packages of  
15 cigarettes, or cigarette vending devices, as provided in  
16 Section 18 of this Act, the Department shall hold a hearing  
17 and shall determine whether such original packages of  
18 cigarettes, at the time of their seizure by the Department,  
19 were not tax stamped or tax imprinted underneath--the--sealed  
20 ~~transparent-wrapper-of-such-original-packages~~ in accordance  
21 with this Act, or whether such cigarette vending devices, at  
22 the time of their seizure by the Department, contained  
23 original packages of cigarettes not tax stamped or tax  
24 imprinted underneath--the-sealed-transparent-wrapper-of-such  
25 ~~original-packages~~ as required by this Act. The Department  
26 shall give not less than 7 days' notice of the time and place  
27 of such hearing to the owner of such property if he is known,  
28 and also to the person in whose possession the property so  
29 taken was found, if such person is known and if such person  
30 in possession is not the owner of said property. In case  
31 neither the owner nor the person in possession of such  
32 property is known, the Department shall cause publication of  
33 the time and place of such hearing to be made at least once

1 in each week for 3 weeks successively in a newspaper of  
2 general circulation in the county where such hearing is to be  
3 held.

4 If, as the result of such hearing, the Department shall  
5 determine that the original packages of cigarettes seized  
6 were at the time of seizure not tax stamped or tax imprinted  
7 ~~underneath--the--sealed--transparent-wrapper-of-such-original~~  
8 packages as required by this Act, or that any cigarette  
9 vending device at the time of its seizure contained original  
10 packages of cigarettes not tax stamped or tax imprinted  
11 ~~underneath--the--sealed--transparent-wrapper-of-such-original~~  
12 packages as required by this Act, the Department shall enter  
13 an order declaring such original packages of cigarettes or  
14 such cigarette vending devices confiscated and forfeited to  
15 the State, and to be held by the Department for disposal by  
16 it as provided in Section 21 of this Act. The Department  
17 shall give notice of such order to the owner of such property  
18 if he is known, and also to the person in whose possession  
19 the property so taken was found, if such person is known and  
20 if such person in possession is not the owner of said  
21 property. In case neither the owner nor the person in  
22 possession of such property is known, the Department shall  
23 cause publication of such order to be made at least once in  
24 each week for 3 weeks successively in a newspaper of general  
25 circulation in the county where such hearing was held.

26 (Source: P.A. 76-684.)

27 (35 ILCS 130/18b) (from Ch. 120, par. 453.18b)

28 Sec. 18b. Forfeiture of fixtures and equipment. All  
29 fixtures and all other materials and personal property on the  
30 premises of any distributor or retailer who, with intent to  
31 defraud the State, fails to keep or make any record, return,  
32 report, or inventory required by this Act, keeps or makes any  
33 false or fraudulent record, return, report, or inventory

1 required by this Act, refuses to pay any tax imposed by this  
 2 Act, or attempts in any manner to evade or defeat the  
 3 requirements of this Act shall be forfeited to the State and  
 4 be held by the Department for disposal by it as provided in  
 5 Section 21 of this Act. With--the--exception--of--licensed  
 6 distributors,---anyone--possessing--cigarettes--contained--in  
 7 original-packages-which-are-not-tax-stamped--as--required--by  
 8 this--Act,--or--which--are--improperly--tax-stamped,--shall-be  
 9 liable-to-pay,--to-the-Department-for--deposit--in--the--State  
 10 Treasury,---a--penalty--of--\$15--for--each--such--package--of  
 11 cigarettes-in-excess-of-100-packages,--Such--penalty--may--be  
 12 recovered-by-the-Department-in-a-civil-action.

13 (Source: P.A. 83-1428.)

14 (35 ILCS 130/18c)

15 Sec. 18c. Failure to comply with Act; civil penalty.  
 16 Whoever omits, neglects, or refuses to comply with any duty  
 17 imposed upon him or her by this Act, or to do, or cause to be  
 18 done, any of the things required by this Act, or does  
 19 anything prohibited by this Act shall, in addition to any  
 20 other penalty provided in this Act, be liable to a penalty of  
 21 \$1,000, or 5 times the retail value of the cigarettes  
 22 involved, whichever is greater, to be recovered, with costs  
 23 of suit, in a civil action. Possession-of-not-less-than-10  
 24 and-not-more-than-100-original-packages-not--tax--stamped--or  
 25 improperly--tax--stamped;--penalty.---With--the--exception-of  
 26 licensed-distributors,--anyone-possessing-not-less-than-10-and  
 27 not--more--than--100--packages--of--cigarettes--contained--in  
 28 original-packages-that-are-not-tax--stamped--as--required--by  
 29 this--Act,--or--that-are-improperly-tax-stamped,--is-liable-to  
 30 pay-to-the-Department,--for-deposit-into--the--Tax--Compliance  
 31 and--Administration--Fund,--a--penalty--of--\$10-for-each-such  
 32 package--of--cigarettes,--unless--reasonable--cause--can--be  
 33 established--by--the-person-upon-whom-the-penalty-is-imposed.



1 Reasonable-cause-shall-be-determined--in--each--situation--in  
2 accordance-with-rules-adopted-by-the-Department.

3 (Source: P.A. 92-322, eff. 1-1-02.)

4 (35 ILCS 130/18d new)

5 Sec. 18d. Failure to pay tax; civil penalty. Whoever  
6 fails to pay any tax imposed by this Act at the time  
7 prescribed by law or rules shall, in addition to any other  
8 penalty provided in this Act, be liable to a penalty of 5  
9 times the tax due but unpaid.

10 (35 ILCS 130/20) (from Ch. 120, par. 453.20)

11 Sec. 20. Whenever any peace officer of the State or any  
12 duly authorized officer or employee of the Department shall  
13 have reason to believe that any violation of this Act has  
14 occurred and that the person so violating the Act has in his,  
15 her or its possession any original package of cigarettes, not  
16 tax stamped or tax imprinted underneath---the---sealed  
17 transparent--wrapper--of-such-original-package as required by  
18 this Act, or any vending device containing such original  
19 packages to which stamps have not been affixed, or on which  
20 an authorized substitute for stamps has not been imprinted  
21 underneath--the--sealed--transparent-wrapper-of-such-original  
22 packages, as required by this Act, he may file or cause to be  
23 filed his complaint in writing, verified by affidavit, with  
24 any court within whose jurisdiction the premises to be  
25 searched are situated, stating the facts upon which such  
26 belief is founded, the premises to be searched, and the  
27 property to be seized, and procure a search warrant and  
28 execute the same. Upon the execution of such search warrant,  
29 the peace officer, or officer or employee of the Department,  
30 executing such search warrant shall make due return thereof  
31 to the court issuing the same, together with an inventory of  
32 the property taken thereunder. The court shall thereupon

1 issue process against the owner of such property if he is  
2 known; otherwise, such process shall be issued against the  
3 person in whose possession the property so taken is found, if  
4 such person is known. In case of inability to serve such  
5 process upon the owner or the person in possession of the  
6 property at the time of its seizure, as hereinbefore  
7 provided, notice of the proceedings before the court shall be  
8 given as required by the statutes of the State governing  
9 cases of Attachment. Upon the return of the process duly  
10 served or upon the posting or publishing of notice made, as  
11 hereinabove provided, the court or jury, if a jury shall be  
12 demanded, shall proceed to determine whether or not such  
13 property so seized was held or possessed in violation of this  
14 Act, or whether, if a vending device has been so seized, it  
15 contained at the time of its seizure original packages not  
16 tax stamped or tax imprinted underneath---the---sealed  
17 transparent--wrapper-of-such-original-packages as required by  
18 this Act. In case of a finding that the original packages  
19 seized were not tax stamped or tax imprinted underneath-the  
20 sealed-transparent--wrapper--of--such--original--packages in  
21 accordance with the provisions of this Act, or that any  
22 vending device so seized contained at the time of its seizure  
23 original packages not tax stamped or tax imprinted underneath  
24 the-sealed-transparent-wrapper-of-such-original--packages in  
25 accordance with the provisions of this Act, judgment shall be  
26 entered confiscating and forfeiting the property to the State  
27 and ordering its delivery to the Department, and in addition  
28 thereto, the court shall have power to tax and assess the  
29 costs of the proceedings.

30 When any--original--packages--or any cigarette vending  
31 device shall have been declared forfeited to the State by any  
32 court, as hereinbefore provided, and when such confiscated  
33 and forfeited property shall have been delivered to the  
34 Department, as provided in this Act, the said Department

1 shall sell such property for the best price obtainable and  
 2 shall forthwith pay over the proceeds of such sale to the  
 3 State Treasurer; provided, however, that if the value of such  
 4 property to be sold at any one time shall be \$500 or more,  
 5 such property shall be sold only to the highest and best  
 6 bidder on such terms and conditions and on open competitive  
 7 bidding after public advertisement, in such manner and for  
 8 such terms as the Department, by rule, may prescribe.

9 ~~Upon---making---such--a--sale--of--original--packages--of~~  
 10 ~~cigarettes--which--were--not--tax--stamped--or--tax--imprinted~~  
 11 ~~underneath--the--sealed--transparent-wrapper-of-such-original~~  
 12 ~~packages-as-required-by-this-Act,-the-Department-shall--affix~~  
 13 ~~a--distinctive-stamp-to-each-of-the-original-packages-so-sold~~  
 14 ~~indicating-that-the-same-are-sold-pursuant-to-the--provisions~~  
 15 ~~of-this-Section.~~

16 (Source: Laws 1965, p. 3707.)

17 (35 ILCS 130/21) (from Ch. 120, par. 453.21)

18 Sec. 21. Destruction of forfeited cigarettes; sale of  
 19 forfeited vending devices or fixtures.

20 (a) All cigarettes forfeited to the State under this Act  
 21 shall be destroyed.

22 (a-5) When any fixtures or equipment or any--original  
 23 packages--of-cigarettes-or any cigarette vending device shall  
 24 have been declared forfeited to the State by the Department,  
 25 as provided in Section 18a of this Act, and when all  
 26 proceedings for the judicial review of the Department's  
 27 decision have terminated, the Department shall, to the  
 28 extent that its decision is sustained on review, sell such  
 29 property for the best price obtainable and shall forthwith  
 30 pay over the proceeds of such sale to the State Treasurer. If  
 31 the value of such property to be sold at any one time is \$500  
 32 or more, however, such property shall be sold only to the  
 33 highest and best bidder on such terms and conditions and on

1 open competitive bidding after public advertisement, in such  
2 manner and for such terms as the Department, by rule, may  
3 prescribe.

4 (b) If no complaint for review, as provided in Section 8  
5 of this Act, has been filed within the time required by the  
6 Administrative Review Law, and if no stay order has been  
7 entered thereunder, the Department shall proceed to destroy  
8 the forfeited cigarettes and to sell the other forfeited  
9 property for the best price obtainable and shall forthwith  
10 pay over the proceeds of such sale to the State Treasurer.  
11 If the value of such property to be sold at any one time is  
12 \$500 or more, however, such property shall be sold only to  
13 the highest and best bidder on such terms and conditions and  
14 on open competitive bidding after public advertisement, in  
15 such manner and for such terms as the Department, by rule,  
16 may prescribe.

17 ~~(c)--Upon-making-a-sale-of-unstamped-original-packages-of~~  
18 ~~cigarettes--as-provided-in-this-Section, the Department shall~~  
19 ~~affix-a-distinctive-stamp-to-each-of-the-original-packages-so~~  
20 ~~sold-indicating-that-the-same-are-sold-under-this-Section.~~

21 ~~(d)--Notwithstanding-the-foregoing, any cigarettes seized~~  
22 ~~under-this-Act-or-under-the-Cigarette-Use-Tax-Act-may, at-the~~  
23 ~~discretion-of-the-Director-of-Revenue, be-distributed-to-any~~  
24 ~~eleemosynary-institution-within-the-State-of-Illinois.~~

25 (Source: P.A. 82-783.)

26 (35 ILCS 130/22) (from Ch. 120, par. 453.22)

27 Sec. 22. Counterfeit cigarettes; counterfeiting or  
28 forging stamps; punishment.

29 (a) Notwithstanding any other provision of law, the sale  
30 or possession for sale of counterfeit cigarettes by a  
31 manufacturer, importer, distributor, or retailer shall result  
32 in the seizure of the product and related machinery by the  
33 Department or any law enforcement agency and shall be

1 punishable as follows:

2 (1) A first violation involving a total quantity of  
3 less than 2 cartons of cigarettes shall be punishable by  
4 a fine of \$1,000 or 5 times the retail value of the  
5 cigarettes involved, whichever is greater, or  
6 imprisonment not to exceed 5 years, or both the fine and  
7 imprisonment.

8 (2) A subsequent violation involving a total  
9 quantity of less than 2 cartons of cigarettes shall be  
10 punishable by a fine of \$5,000 or 5 times the retail  
11 value of the cigarettes involved, whichever is greater,  
12 or imprisonment not to exceed 5 years, or both the fine  
13 and the imprisonment, and shall also result in the  
14 revocation by the Department of the manufacturer,  
15 importer, distributor, or retailer license.

16 (3) A first violation involving a total quantity of  
17 2 cartons of cigarettes or more shall be punishable by a  
18 fine of \$2,000 or 5 times the retail value of the  
19 cigarettes involved, whichever is greater, or  
20 imprisonment not to exceed 5 years, or both the fine and  
21 imprisonment.

22 (4) A subsequent violation involving a quantity of 2  
23 cartons of cigarettes or more shall be punishable by a  
24 fine of \$50,000 or 5 times the retail value of the  
25 cigarettes involved, whichever is greater, or  
26 imprisonment not to exceed 5 years, or both the fine and  
27 imprisonment, and shall also result in the revocation by  
28 the Department of the manufacturer, importer,  
29 distributor, or retailer license.

30 For purposes of this Section, counterfeit cigarettes  
31 includes cigarettes that have false manufacturing labels. Any  
32 counterfeit cigarette seized by the Department shall be  
33 destroyed.

34 (b) Any person who (1) (a) falsely or fraudulently

1 makes, forges, alters or counterfeits any stamp provided for  
2 herein, (2) (b) causes or procures to be falsely or  
3 fraudulently made, forged, altered or counterfeited any such  
4 stamp, ((3) (e) knowingly and wilfully utters, publishes,  
5 passes or tenders as genuine any such false, altered, forged  
6 or counterfeited stamp, (4) (d) falsely or fraudulently  
7 makes, forges, alters or counterfeits any tax imprint on an  
8 original package of cigarettes inside a sealed transparent  
9 wrapper, (5) (e) causes or procures falsely or fraudulently  
10 to be made, forged, altered or counterfeited any such tax  
11 imprint or (6) (f) knowingly and wilfully utters, publishes,  
12 passes or tenders as genuine any such false, altered, forged  
13 or counterfeited tax imprint, for the purpose of evading the  
14 tax imposed by this Act shall be guilty of a Class 2 felony.

15 (Source: P.A. 83-1428.)

16 (35 ILCS 130/23) (from Ch. 120, par. 453.23)

17 Sec. 23. Every distributor or other person who shall  
18 knowingly and wilfully sell or offer for sale any original  
19 package, as defined in this Act, having affixed thereto any  
20 fraudulent, spurious, imitation or counterfeit stamp, or  
21 stamp which has been previously affixed, or affixes a stamp  
22 which has previously been affixed to an original package, or  
23 who shall knowingly and wilfully sell or offer for sale any  
24 original package, as defined in this Act, having imprinted  
25 thereon ~~underneath-the-sealed-transparent-wrapper-thereof~~ any  
26 fraudulent, spurious, imitation or counterfeit tax imprint,  
27 shall be deemed guilty of a Class 2 felony.

28 (Source: P.A. 83-1428.)

29 (35 ILCS 130/24) (from Ch. 120, par. 453.24)

30 Sec. 24. Punishment for sale or possession of unstamped  
31 packages.

32 (a) Any person other than a licensed distributor who

1 sells, offers for sale, or has in his possession with intent  
2 to sell or offer for sale, more than 100 original packages,  
3 not tax stamped or tax imprinted underneath--the--sealed  
4 transparent--wrapper--of--such--original--package in accordance  
5 with this Act, shall be guilty of a Class 3 4 felony and, in  
6 addition to any term of imprisonment, may be fined \$10,000 or  
7 5 times the retail value of the cigarettes involved,  
8 whichever is greater.

9 (a-5) Any person other than a licensed distributor who  
10 sells, offers for sale, or has in his possession with intent  
11 to sell or offer for sale, 100 or fewer original packages,  
12 not tax stamped or tax imprinted underneath--the--sealed  
13 transparent--wrapper--of--the--original--package in accordance  
14 with this Act, is guilty of a ~~Class-A-misdemeanor-for-the~~  
15 ~~first-offense-and-a~~ Class 3 4 felony for each subsequent  
16 offense and, in addition to any term of imprisonment, may be  
17 fined \$10,000 or 5 times the retail value of the cigarettes  
18 involved, whichever is greater.

19 (b) Any distributor who sells an original package of  
20 cigarettes, not tax stamped or tax imprinted underneath--the  
21 sealed--transparent--wrapper--of--such--original--package in  
22 accordance with this Act, except when the sale is made under  
23 such circumstances that the tax imposed by this Act may not  
24 legally be levied because of the Constitution or laws of the  
25 United States, shall be guilty of a Class 3 felony and, in  
26 addition to any term of imprisonment, may be fined \$10,000 or  
27 5 times the retail value of the cigarettes involved,  
28 whichever is greater.

29 (Source: P.A. 92-322, eff. 1-1-02.)

30 (35 ILCS 130/25) (from Ch. 120, par. 453.25)

31 Sec. 25. Failure to make report; false report;  
32 punishment. Any person, or any officer, agent or employee of  
33 any person, required by this Act to make, file, render, sign

1 or verify any report or return, who makes any false or  
 2 fraudulent report ~~or files any false or fraudulent return~~, or  
 3 who shall fail to make such report ~~or file such return~~ when  
 4 due, shall be guilty of a Class 4 felony and, in addition to  
 5 any term of imprisonment, may be fined up to \$10,000 or 5  
 6 times the retail value of the cigarettes involved, whichever  
 7 is greater.

8 (Source: P.A. 83-1428.)

9 (35 ILCS 130/31 new)

10 Sec. 31. Delivery sales of cigarettes.

11 (a) Definitions; requirements for delivery sales.

12 (1) For purposes of this Section, the terms listed  
 13 below have the following meanings:

14 (A) "Delivery sale" means any sale of  
 15 cigarettes to a consumer in Illinois where either:

16 (i) the purchaser submits the order for  
 17 the sale by means of a telephonic or other  
 18 method of voice transmission, the mails, or any  
 19 other delivery service, or the Internet or  
 20 other online service; or

21 (ii) the cigarettes are delivered by use  
 22 of the mails or other delivery service.

23 A sale of cigarettes that satisfies the  
 24 criteria in this subdivision (a)(1)(A) shall be a  
 25 delivery sale regardless of whether the seller is  
 26 located within or outside of this State. For  
 27 purposes of this subdivision (a)(1)(A), any sale of  
 28 cigarettes to an individual in this State shall be  
 29 treated as a sale to a consumer unless the  
 30 individual is licensed as a distributor or retailer  
 31 of cigarettes by the Department.

32 (B) "Delivery service" means any person  
 33 (including the U.S. Postal Service) that is engaged



1 in the commercial delivery of letters, packages, or  
2 other containers.

3 (C) "Minor" means any individual to whom the  
4 sale of cigarettes is prohibited by the Sale of  
5 Tobacco to Minors Act.

6 (D) "Shipping container" means a container in  
7 which cigarettes are shipped in connection with a  
8 delivery sale.

9 (E) "Shipping documents" means bills of  
10 lading, airbills, U.S. Postal Service forms, or any  
11 other documents used to evidence the undertaking by  
12 a delivery service to deliver letters, packages, or  
13 other containers.

14 (2) No person shall make a delivery sale of  
15 cigarettes to any minor.

16 (3) Each person taking a delivery sale order shall  
17 comply with:

18 (A) the age verification requirements set forth  
19 in subsection (b) of this Section;

20 (B) the disclosure requirements set forth in  
21 subsection (c) of this Section;

22 (C) the shipping requirements set forth  
23 subsection (d) of this Section;

24 (D) the registration and reporting requirements  
25 set forth in subsection (e) of this Section;

26 (E) the tax collection requirements set forth  
27 in subsection (f) of this Section; and

28 (F) all other laws of this State generally  
29 applicable to sales of cigarettes that occur  
30 entirely within this State, including, but not  
31 limited to, those laws imposing:

32 (i) excise taxes;

33 (ii) sales taxes;

34 (iii) licensing and tax-stamping

1 requirements; and

2 (iv) escrow or other payment obligations.

3 (b) Age verification requirements.

4 (1) No person shall mail or ship cigarettes in  
5 connection with a delivery sale order unless, before  
6 mailing or shipping the cigarettes, the person accepting  
7 the delivery sale order first:

8 (A) obtains from the prospective customer a  
9 certification that includes:

10 (i) reliable confirmation that the  
11 purchaser is not a minor; and

12 (ii) a statement signed by the prospective  
13 purchaser in writing and under penalty of  
14 perjury that:

15 (aa) certifies the prospective  
16 purchaser's address and date of birth; and

17 (bb) confirms that the prospective  
18 purchaser understands that signing another  
19 person's name to the certification is  
20 illegal, and that the sale of cigarettes  
21 to minors is illegal, and that the  
22 purchase of cigarettes by minors is  
23 illegal under the Sale of Tobacco to  
24 Minors Act;

25 (B) makes a good-faith effort to verify the  
26 information contained in the certification provided  
27 by the prospective purchaser pursuant to subdivision  
28 (b)(1)(A) against a federal database established for  
29 that purpose if one exists, or a commercially  
30 available database;

31 (C) sends to the prospective purchaser, via  
32 e-mail or other means, a notice that meets the  
33 requirements of subsection (c) of this Section and  
34 requests confirmation that the delivery sale order

1 was placed by the prospective purchaser;

2 (D) receives from the prospective purchaser  
3 confirmation, pursuant to the request described in  
4 subdivision (b)(1)(C), that the individual placed  
5 the delivery sale order; and

6 (E) receives payment for the delivery sale from  
7 the prospective purchaser by a credit or debit card  
8 that has been issued in the purchaser's name.

9 (2) Persons taking delivery sale orders may request  
10 that prospective purchasers provide their e-mail  
11 addresses.

12 (c) Disclosure requirements. The notice required under  
13 subdivision (b)(1)(C) of this Section shall include:

14 (1) a prominent and clearly legible statement that  
15 cigarette sales to minors are illegal;

16 (2) a prominent and clearly legible statement that  
17 consists of one of the warnings set forth in Section  
18 4(a)(1) of the federal Cigarette Labeling and Advertising  
19 Act (15 U.S.C. 1333(a)(1)) rotated on a quarterly basis;

20 (3) a prominent and clearly legible statement that  
21 sales of cigarettes are restricted to those individuals  
22 who provide verifiable proof of age in accordance with  
23 subsection (b) of this Section; and

24 (4) a prominent and clearly legible statement that  
25 cigarette sales are taxable under Section 2 and an  
26 explanation of how the tax has been or is to be paid with  
27 respect to the delivery sale.

28 (d) Shipping requirements.

29 (1) Each person who mails or ships cigarettes in  
30 connection with a delivery sale order:

31 (A) shall include as part of the shipping  
32 documents a clear and conspicuous statement  
33 providing as follows: "CIGARETTES: ILLINOIS LAW  
34 PROHIBITS SHIPPING TO INDIVIDUALS UNDER 18 AND

1 REQUIRES THE PAYMENT OF ALL APPLICABLE TAXES";

2 (B) shall use a method of mailing or shipping  
3 that obligates the delivery service to require:

4 (i) the purchaser placing the delivery  
5 sale order, or an adult designated by the  
6 purchaser to sign to accept delivery of the  
7 shipping container; and

8 (ii) proof, in the form of a valid,  
9 government-issued identification bearing a  
10 photograph of the individual who signs to  
11 accept delivery of the shipping container,  
12 demonstrating that (a) the individual is either  
13 the addressee or the adult designated by the  
14 addressee and (b) the individual is not a  
15 minor, but such proof shall be required only if  
16 that individual appears to be under 27 years of  
17 age; and

18 (C) shall provide to the delivery service  
19 retained to deliver the delivery sale evidence of  
20 full compliance with subsection (e) of this Section.

21 (2) A delivery service (including the U.S. Postal  
22 Service) shall be in violation of this Act if it ships or  
23 delivers cigarettes in connection with a delivery sale  
24 without first receiving the evidence of compliance with  
25 subsection (e) of this Section that is described in  
26 subdivision (d)(1)(C) or if it fails to comply with the  
27 requirements described in subdivision (d)(1)(B) or  
28 subsection (e) of this Section:

29 (A) when obligated to do so under a method of  
30 shipping;

31 (B) when delivering any container pursuant to  
32 shipping documents containing the statement  
33 described in subdivision (d)(1)(A); or

34 (C) when delivering any container that the

1 delivery service otherwise has reason to know  
2 contains cigarettes.

3 (3) If the person taking a delivery sale order  
4 delivers the cigarettes without using a third-party  
5 delivery service, that person shall comply with all  
6 requirements of this Act applicable to a delivery service  
7 and shall be in violation of this Act if it fails to  
8 comply with any applicable requirement.

9 (e) Registration and reporting requirements.

10 (1) Registration requirement. Prior to making  
11 delivery sales or shipping cigarettes in connection with  
12 any delivery sales, every person shall file with the  
13 Department a statement setting forth the person's name,  
14 trade name, and the address of the person's principal  
15 place of business and any other place of business.

16 (2) Reporting requirement. Not later than the 10th  
17 day of each calendar month, each person that has made a  
18 delivery sale or shipped or delivered cigarettes in  
19 connection with any delivery sale during the previous  
20 calendar month shall file with the Department a  
21 memorandum or a copy of the invoice that provides for  
22 each and every delivery sale:

23 (A) the name and address of the individual to  
24 whom the delivery sale was made;

25 (B) the brand or brands of the cigarettes that  
26 were sold in the delivery sale; and

27 (C) the quantity of cigarettes that were sold  
28 in the delivery sale.

29 (f) Collection of taxes. No person shall make a delivery  
30 sale of any cigarettes, the packages of which do not bear any  
31 tax stamp required by this Act.

32 (g) Penalties.

33 (1) In general.

34 (A) First offenses. Except as otherwise

1 provided in this Section, the first time a person  
2 violates any provision of this Section, the person  
3 shall be fined \$1,000 or 5 times the retail value of  
4 the cigarettes involved, whichever is greater.

5 (B) Subsequent offenses. In the case of a  
6 second or subsequent violation of this Section, the  
7 person shall be fined \$5,000 or 5 times the retail  
8 value of the cigarettes involved, whichever is  
9 greater.

10 (2) Knowing offenses by persons. Any person who  
11 knowingly violates any provision of this Section or who  
12 knowingly and falsely submits a certification under  
13 subdivision (b)(1)(A) in another person's name shall, for  
14 each offense, be fined \$10,000 or 5 times the retail  
15 value of the cigarettes involved, whichever is greater,  
16 imprisoned not more than 5 years, or both the fine and  
17 imprisonment.

18 (3) Failure to pay tax. Whoever fails to pay any tax  
19 required in connection with a delivery sale shall pay, in  
20 addition to any other penalty, a penalty of 5 times the  
21 amount of the tax due but unpaid.

22 (4) Forfeiture.

23 (A) Any cigarettes sold or attempted to be sold  
24 in a delivery sale that do not meet the requirements  
25 of this Section shall be forfeited to this State and  
26 destroyed.

27 (B) All fixtures, equipment, and all other  
28 materials and personal property on the premises of  
29 any person who, with the intent to defraud this  
30 State, fails to satisfy any of the requirements of  
31 this Section shall be forfeited to this State.

32 (h) Enforcement. The Attorney General, his or her  
33 designee, or any person who holds a permit under section 5712  
34 of title 26 of the United States Code may bring an action in

1 the appropriate court in this State to prevent or restrain  
2 violations of this Section by any person (or any person  
3 controlling that person).

4 (35 ILCS 130/32 new)

5 Sec. 32. Compliance with Tobacco Products Manufacturers'  
6 Escrow Act.

7 (a) Definitions. For the purposes of this Section:

8 "Brand family" means all styles of cigarettes sold under  
9 the same trademark and differentiated from one another by  
10 means of additional modifiers or descriptors, including, but  
11 not limited to, "menthol", "lights", "kings", and "100s" and  
12 includes any brand name (alone or in conjunction with any  
13 other word), trademark, logo, symbol, motto, selling message,  
14 recognizable pattern of colors, or any other indicia of  
15 product identification identical or similar to or  
16 identifiable with a previously known brand of cigarettes.

17 "Non-participating manufacturer" means any tobacco  
18 product manufacturer that is not a participating  
19 manufacturer.

20 "Participating manufacturer" has the meaning given that  
21 term in Section II(jj) of the Master Settlement Agreement and  
22 all amendments thereto.

23 "Qualified escrow fund" has the same meaning as that term  
24 is defined in Section 10 of the Tobacco Products  
25 Manufacturers' Escrow Act.

26 "Tobacco product manufacturer" has the same meaning as  
27 that term is defined in Section 10 of the Tobacco Products  
28 Manufacturers' Escrow Act.

29 "Units Sold" has the same meaning as that term is defined  
30 in Section 10 of the Tobacco Products Manufacturers' Escrow  
31 Act.

32 (b) Certifications, directory; tax stamps.

33 (1) Certification. Every tobacco product

1 manufacturer whose cigarettes are sold in this State,  
2 whether directly or through a distributor, retailer, or  
3 similar intermediary or intermediaries, shall execute and  
4 deliver on a form prescribed by the Attorney General a  
5 certification to the Department and Attorney General no  
6 later than the 30th day of April each year certifying  
7 under penalty of perjury that, as of the date of the  
8 certification, the tobacco product manufacturer either:  
9 is a participating manufacturer; or is in full compliance  
10 with subdivision (a)(2) of Section 15 of the Tobacco  
11 Products Manufacturers' Escrow Act, including all  
12 quarterly installment payments required by that  
13 subdivision.

14 (A) A participating manufacturer shall include  
15 in its certification a list of its brand families.  
16 The participating manufacturer shall update the list  
17 30 days prior to any addition to or modification of  
18 its brand families by executing and delivering a  
19 supplemental certification to the Attorney General.

20 (B) A non-participating manufacturer shall  
21 include in its certification a complete list of all  
22 of its brand families (i) separately listing brand  
23 families of cigarettes and the number of units sold  
24 for each brand family that were sold in the State  
25 during the preceding calendar year, (ii) all of its  
26 brand families that have been sold in the State at  
27 any time during the current calendar year, (iii)  
28 indicating by an asterisk any brand family sold in  
29 the State during the preceding calendar year that is  
30 no longer being sold in the State as of the date of  
31 certification, and (iv) identifying by name and  
32 address any other manufacturer of those brand  
33 families in the preceding calendar year. The  
34 non-participating manufacturer shall update the list



1           30 days prior to any addition or modification of its  
2           brand families by executing and delivering a  
3           supplemental certification to the Attorney General.

4           (C) In the case of a non-participating  
5           manufacturer, the certification shall further  
6           certify:

7                   (i) That the non-participating  
8                   manufacturer is registered to do business in  
9                   the State or has appointed a resident agent for  
10                   service of process and provided notice thereof  
11                   as required by subsection (c).

12                   (ii) That the non-participating  
13                   manufacturer has established and continues to  
14                   maintain a qualified escrow fund and has  
15                   executed a qualified escrow agreement that has  
16                   been reviewed and approved by the Attorney  
17                   General and that governs the qualified escrow  
18                   fund.

19                   (iii) That the non-participating  
20                   manufacturer is in full compliance with  
21                   subdivision (a)(2) of Section 15 of the Tobacco  
22                   Products Manufacturers' Escrow Act and with  
23                   this Section and any rules adopted pursuant  
24                   thereto;

25                   (iv) (aa) the name, address, and  
26                   telephone number of the financial institution  
27                   where the non-participating manufacturer has  
28                   established the qualified escrow fund; (bb) the  
29                   account number of the qualified escrow fund and  
30                   sub-account number for this State; (cc) the  
31                   amount the non-participating manufacturer  
32                   placed in the fund for cigarettes sold in this  
33                   State during the preceding calendar year, the  
34                   date or dates and amount of each deposit, and

1 such evidence or verification as may be deemed  
2 necessary by the Attorney General to confirm  
3 the foregoing; and (dd) the amounts of and  
4 dates of any withdrawal or transfer of funds  
5 the non-participating manufacturer made at any  
6 time from the fund or from any other qualified  
7 escrow fund into which it ever made escrow  
8 payments pursuant to subdivision (a)(2) of  
9 Section 15 of the Tobacco Products  
10 Manufacturers' Escrow Act and all rules adopted  
11 thereto.

12 (D) A tobacco product manufacturer may not  
13 include a brand family in its certification unless  
14 (i) in the case of a participating manufacturer, the  
15 participating manufacturer affirms that the brand  
16 family is to be deemed to be its cigarettes for  
17 purposes of calculating its payments under the  
18 Master Settlement Agreement for the relevant year in  
19 the volume and shares determined pursuant to the  
20 Master Settlement Agreement and (ii) in the case of  
21 a non-participating manufacturer, the  
22 non-participating manufacturer affirms that the  
23 brand family is to be deemed to be its cigarettes  
24 for purposes of Section 15 of the Tobacco Products  
25 Manufacturers' Escrow Act. Nothing in this Section  
26 shall be construed as limiting or otherwise  
27 affecting the State's right to maintain that a brand  
28 family constitutes cigarettes of a different tobacco  
29 product manufacturer for purposes of calculating  
30 payments under the Master Settlement Agreement or  
31 for purposes of Section 15 of the Tobacco Products  
32 Manufacturers' Escrow Act.

33 (E) The tobacco product manufacturers shall  
34 maintain all invoices and documentation of sales and

1 other such information relied upon for certification  
2 for a period of 5 years, unless otherwise required  
3 by law to maintain them for a greater period of  
4 time.

5 (2) Directory of cigarettes approved for stamping  
6 and sale. Not later than January 1, 2005, the Attorney  
7 General shall develop and make available for public  
8 inspection a directory listing all tobacco product  
9 manufacturers that have provided current and accurate  
10 certifications conforming to the requirements of  
11 subdivision (b)(1) and all brand families that are listed  
12 in the certifications (the "Directory"), except as noted  
13 below.

14 (A) The Attorney General shall not include or  
15 retain in the Directory the name or brand families  
16 of any non-participating manufacturer that fails to  
17 provide the required certification or whose  
18 certification the Attorney General determines is not  
19 in compliance with subdivisions (b)(1)(B) and  
20 (b)(1)(C), unless the Attorney General has  
21 determined that the violation has been cured to the  
22 satisfaction of the Attorney General.

23 (B) Neither a tobacco product manufacturer nor  
24 brand family shall be included or retained in the  
25 Directory if the Attorney General concludes that (i)  
26 in the case of a non-participating manufacturer all  
27 escrow payments required under subdivision (a)(2) of  
28 Section 15 of the Tobacco Products Manufacturers'  
29 Escrow Act for any period for any brand family,  
30 whether or not listed by the non-participating  
31 manufacturer, have not been fully paid into a  
32 qualified escrow fund governed by a qualified escrow  
33 agreement that has been approved by the Attorney  
34 General, or (ii) all outstanding final judgments,

1 including interest thereon, for violations of  
2 Section 15 of the Tobacco Products Manufacturers'  
3 Escrow Act have not been fully satisfied for the  
4 brand family and the manufacturer.

5 (C) The Attorney General shall update the  
6 Directory as necessary in order to correct mistakes  
7 and to add or remove a tobacco product manufacturer  
8 or brand families to keep the Directory in  
9 conformity with the requirements of this Act.

10 (D) Every distributor shall provide and update  
11 as necessary an electronic mail address to the  
12 Attorney General for the purpose of receiving any  
13 notifications as may be required by this Act.

14 (3) Notice and review of determination. A  
15 determination of the Attorney General to not list or to  
16 remove from the Directory a brand family or tobacco  
17 product manufacturer shall be subject to review in the  
18 manner prescribed by the Administrative Review Law and  
19 all amendments and modifications thereof and the rules  
20 adopted pursuant thereto.

21 (4) A distributor shall not affix or cause to be  
22 affixed any stamp or imprint to a package of cigarettes  
23 of a brand family or the tobacco product manufacturer, as  
24 defined in Section 10 of the Tobacco Product  
25 Manufacturers' Escrow Act, that is not included in the  
26 Directory published by the Attorney General.

27 (5) No person shall be issued a distributor's  
28 license or granted a renewal of a distributor's license  
29 unless the person has certified in writing under penalty  
30 of perjury that the person will fully comply with this  
31 Section.

32 (c) Agent for service of process.

33 (1) Any non-resident or foreign non-participating  
34 manufacturer that has not registered to do business in

1 the State as a foreign corporation or business entity  
2 shall, as a condition precedent to having its brand  
3 families listed or retained in the Directory, appoint and  
4 continually engage without interruption the services of  
5 an agent in this State to act as agent for the service of  
6 process on whom all process, and any action or proceeding  
7 against it concerning or arising out of the enforcement  
8 of the Act and the Tobacco Product Manufacturers' Escrow  
9 Act may be served in any manner authorized by law. The  
10 service shall constitute legal and valid service of  
11 process on the non-participating manufacturer. The  
12 non-participating manufacturer shall provide the name,  
13 address, phone number, and proof of the appointment and  
14 availability of the agent to and to the satisfaction of  
15 the Department and Attorney General.

16 (2) The non-participating manufacturer shall provide  
17 notice to the Department and Attorney General 30 calendar  
18 days prior to termination of the authority of an agent  
19 and shall further provide proof to the satisfaction of  
20 the Attorney General of the appointment of a new agent no  
21 less than 5 calendar days prior to the termination of an  
22 existing agent appointment. In the event an agent  
23 terminates an agency appointment, the non-participating  
24 manufacturer shall notify the Department and Attorney  
25 General of the termination within 5 calendar days and  
26 shall include proof to the satisfaction of the Attorney  
27 General of the appointment of a new agent.

28 (3) Any non-participating manufacturer whose  
29 products are sold in this State without the manufacturer  
30 appointing or designating an agent as required in this  
31 subsection (c) shall be deemed to have appointed the  
32 Secretary of State as its agent and may be proceeded  
33 against in courts of this State by service of process  
34 upon the Secretary of State; however, the appointment of

1 the Secretary of State as an agent shall not satisfy the  
2 condition precedent to having its brand families listed  
3 or retained in the Directory.

4 (d) Reporting of information; escrow installments.

5 (1) Not later than 20 days after the end of each  
6 calendar quarter, and more frequently if so directed by  
7 the Department, each distributor shall submit such  
8 information as the Department requires to facilitate  
9 compliance with this Section, including, but not limited  
10 to, a list by brand family of the total number of  
11 cigarettes or, in the case of roll-your-own, the  
12 equivalent stick count for which the distributor affixed  
13 stamps during the previous calendar quarter or otherwise  
14 paid the tax due for the cigarettes. The distributor  
15 shall maintain and make available to the Department all  
16 invoices and documentation of sales of all  
17 non-participating manufacturer cigarettes and any other  
18 information relied upon in reporting to the Department  
19 for a period of 5 years.

20 (2) The Department is authorized to disclose to the  
21 Attorney General any information received under this Act  
22 and requested by the Attorney General for purposes of  
23 determining compliance with and enforcing the provisions  
24 of this Act. The Department and Attorney General shall  
25 share with each other the information received under this  
26 Act and may share this information with other federal,  
27 state, or local agencies only for purposes of enforcement  
28 of this Act, the Tobacco Product Manufacturers' Escrow  
29 Act, or corresponding laws of other states.

30 (3) In addition to the information required to be  
31 submitted pursuant to subdivision (d)(1), the Attorney  
32 General may require a distributor or tobacco product  
33 manufacturer to submit any additional information  
34 including, but not limited to, samples of the packaging

1 or labeling of each brand family, as is necessary to  
2 enable the Attorney General to determine whether a  
3 tobacco product manufacturer is in compliance with the  
4 Tobacco Manufacturers' Escrow Act.

5 (4) To promote compliance with the provisions of  
6 this Act, the Attorney General may adopt rules requiring  
7 a tobacco product manufacturer subject to the  
8 requirements of the Tobacco Products Manufacturers'  
9 Escrow Act to make the escrow deposits required in  
10 quarterly installments during the year in which the sales  
11 covered by the deposits are made. The Attorney General  
12 may require production of information sufficient to  
13 enable the Attorney General to determine the adequacy of  
14 the amount of the installment deposit.

15 (e) Penalties and other remedies.

16 (1) In addition to or instead of any other civil or  
17 criminal remedy provided by law, upon a determination  
18 that a distributor has violated subdivision (b)(4) or any  
19 rule adopted pursuant thereto, the Department may revoke  
20 or suspend the license of any distributor in the manner  
21 provided by Section 6. Each stamp affixed and each offer  
22 to sell cigarettes in violation of subdivision (b)(4)  
23 shall constitute a separate violation. For each  
24 violation, the Department may also impose a civil penalty  
25 in an amount not to exceed the greater of 500% of the  
26 retail value of the cigarettes sold or \$5,000 upon a  
27 determination of violation of subdivision (b)(4) or any  
28 rules adopted pursuant thereto.

29 (2) Contraband and seizure. Any cigarettes that have  
30 been sold, offered for sale, possessed for sale in this  
31 State, or imported for personal consumption in violation  
32 of subdivision (b)(4) shall be deemed contraband under  
33 this Act and are subject to seizure and forfeiture as  
34 provided in this Act, and all such cigarettes seized and

1 forfeited shall be destroyed. The cigarettes shall be  
2 deemed contraband whether the violation of this Section  
3 is knowing or otherwise.

4 (3) Injunction. The Attorney General, on behalf of  
5 the Department, may seek an injunction to restrain a  
6 threatened or actual violation of subdivisions (b)(4),  
7 (d)(1), or (d)(3) by a distributor and to compel the  
8 distributor to comply with those subdivisions. In any  
9 action brought pursuant to this subdivision (e)(3), the  
10 State shall be entitled to recover the costs of  
11 investigation, costs of the action, and reasonable  
12 attorney fees.

13 (4) Unlawful sale and distribution. It shall be  
14 unlawful for a person to (i) sell or distribute  
15 cigarettes or (ii) acquire, hold, own, possess,  
16 transport, import, or cause to be imported, cigarettes  
17 that the person knows or should know are intended for  
18 distribution or sale in the State in violation of  
19 subsection (b). A violation of this subdivision (e)(4)  
20 shall be a Class C misdemeanor.

21 (5) Unfair trade practices. A person who violates  
22 subdivision (b)(4) engages in an unlawful practice as  
23 provided in the Consumer Fraud and Deceptive Business  
24 Practices Act.

25 (f) Miscellaneous provisions.

26 (1) Dates. For the year 2003, if the effective date  
27 of this amendatory Act of the 93rd General Assembly is  
28 later than March 16, 2003, the first report of stamping  
29 agents required by subdivision (d)(1) shall be due 30  
30 days after the effective date of this amendatory Act of  
31 the 93rd General Assembly; the certifications by a  
32 tobacco product manufacturer described in subdivision  
33 (b)(1) shall be due 45 days after the effective date of  
34 this amendatory Act of the 93rd General Assembly; and the



1 Directory described in subdivision (b)(2) shall be  
2 published or made available not later than January 1,  
3 2005.

4 (2) Adoption of rules. The Attorney General may  
5 adopt rules necessary to effect the purposes of this Act.

6 (3) Recovery of costs and fees by Attorney General.  
7 In any action brought by the State to enforce this Act,  
8 the State shall be entitled to recover the costs of  
9 investigation, expert witness fees, costs of the action,  
10 and reasonable attorney fees.

11 (4) Disgorgement of profits for violations of Act.  
12 If a court determines that a person has violated this  
13 Act, the court shall order any profits, gain, gross  
14 receipts, or other benefits from the violation to be  
15 disgorged and paid to the State Treasurer for deposit  
16 into the Tobacco Settlement Recovery Fund. Unless  
17 otherwise expressly provided, the remedies or penalties  
18 provided by this Act are cumulative to each other and to  
19 the remedies or penalties available under all other laws  
20 of this State.

21 (5) Construction and severability. If a court of  
22 competent jurisdiction finds that the provisions of this  
23 Act and of the Tobacco Products Manufacturers' Escrow Act  
24 conflict and cannot be harmonized, then the provisions of  
25 the Tobacco Products Manufacturers' Escrow Act shall  
26 control. If any Section, subsection, subdivision,  
27 paragraph, sentence, clause, or phrase of this Act causes  
28 the Tobacco Products Manufacturers' Escrow Act to no  
29 longer constitute a qualifying or model statute, as those  
30 terms are defined in the Master Settlement Agreement,  
31 then that portion of this Act shall not be valid. If any  
32 Section, subsection, subdivision, paragraph, sentence,  
33 clause, or phrase of this Act is for any reason held to  
34 be invalid, unlawful, or unconstitutional, that decision

1 shall not affect the validity of the remaining portions  
2 of this Act or any part thereof. If any provision of this  
3 Section or the application of any provision of this  
4 Section to any person or circumstance is held to be  
5 invalid, the remainder of this Section and the  
6 application of the provisions of this Section to any  
7 other person or circumstance shall not be affected  
8 thereby and shall continue to be enforced to the fullest  
9 extent possible.

10 (35 ILCS 130/9b rep.)

11 (35 ILCS 130/28 rep.)

12 (35 ILCS 130/30 rep.)

13 Section 10. The Cigarette Tax Act is amended by repealing  
14 Sections 9b, 28, and 30.

15 (35 ILCS 135/Act rep.)

16 Section 15. The Cigarette Use Tax Act is repealed.

17 Section 99. Effective date. This Act takes effect 90  
18 days after becoming law.

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- 35 ILCS 130/2 from Ch. 120, par. 453.2
- 35 ILCS 130/3 from Ch. 120, par. 453.3
- 35 ILCS 130/4 from Ch. 120, par. 453.4
- 35 ILCS 130/4a from Ch. 120, par. 453.4a
- 35 ILCS 130/4b from Ch. 120, par. 453.4b
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- 35 ILCS 130/9 from Ch. 120, par. 453.9
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- 6 35 ILCS 130/30 rep.
- 7 35 ILCS 135/Act rep.