

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 adding
5 Section 2a as follows:

6 (35 ILCS 130/2a new)

7 Sec. 2a. Nonparticipating-manufacturer equity assessment.

8 (a) As used in this Section, "nonparticipating
9 manufacturer" has the same meaning as that term is defined in
10 Section 10 of the Tobacco Product Manufacturers' Escrow
11 Enforcement Act of 2003.

12 (b) An equity assessment, in the amount of 25 mills per
13 cigarette, is imposed on each package of
14 nonparticipating-manufacturer cigarettes to which a person
15 affixes a stamp or imprint as required under existing law. This
16 equity assessment is in addition to all other assessments,
17 fees, and taxes levied or imposed under existing law. The
18 Department shall collect the equity assessment each month
19 directly from each nonparticipating manufacturer based on
20 information received by the Department under subsections (d)
21 and (e) of this Section.

22 (c) The purposes of this assessment are:

23 (1) to prevent nonparticipating manufacturers from
24 undermining the State's policy of reducing underage
25 smoking by offering their cigarettes for sale
26 substantially below the price of cigarettes of other
27 manufacturers;

28 (2) to protect funding, which is reduced as a result of
29 the growth of nonparticipating-manufacturer cigarette
30 sales, for programs funded in whole or in part by payments
31 to the State under the Master Settlement Agreement, as
32 defined in Section 10 of the Tobacco Product Manufacturers'

1 Escrow Act, and to recoup settlement-payment revenue lost
2 to the State as a result of nonparticipating-manufacturer
3 cigarette sales;

4 (3) notwithstanding Section 2, to fund enforcement and
5 administration of the Tobacco Product Manufacturers'
6 Escrow Act, the Tobacco Product Manufacturers' Escrow
7 Enforcement Act of 2003, and this assessment, including
8 reasonable administrative costs incurred by persons
9 subject to subsection (e) of this Section by reason of the
10 requirements of that subsection; and

11 (4) to fund such other purposes as the General Assembly
12 shall determine.

13 (d) A nonparticipating manufacturer whose cigarettes are
14 being offered for sale in this State on the effective date of
15 this amendatory Act of the 93rd General Assembly shall pay the
16 assessment imposed by this Section within 30 days after the
17 effective date of this amendatory Act of the 93rd General
18 Assembly. If cigarettes of a nonparticipating manufacturer are
19 not being offered for sale in this State on the effective date
20 of this amendatory Act of the 93rd General Assembly, then the
21 nonparticipating manufacturer, before its cigarettes may begin
22 to be offered for sale in this State, shall prepay the fee
23 imposed by this Section for the number of cigarettes of the
24 nonparticipating manufacturer that the Department reasonably
25 projects will be sold in the first calendar month in which
26 cigarettes of the nonparticipating manufacturer are sold in
27 this State. The prepayment amount shall be (i) determined by
28 multiplying 25 mills times the number of cigarettes that the
29 Department reasonably projects that the nonparticipating
30 manufacturer will sell in this State in that first calendar
31 month or (ii) \$50,000, whichever is more. The Department may
32 require a nonparticipating manufacturer to provide any
33 information reasonably necessary to determine the assessment
34 payment amount and, in the case of prepayment, shall establish
35 procedures providing for reimbursement to nonparticipating
36 manufacturers if actual sales are less than sales as projected

1 by the Department and for additional payment by
2 nonparticipating manufacturers if actual sales are greater
3 than sales as projected by the Department.

4 (e) Each person required to report to the Department under
5 Section 9 shall State in that report the number and
6 denominations of stamps or imprints affixed to individual
7 packages of nonparticipating-manufacturer cigarettes, by
8 manufacturer and brand family, sold by the person for each
9 place of business in the previous month. The reporting
10 requirement imposed by this subsection shall be enforced in the
11 same manner as the reporting requirements in Section 9.

12 (f) A person shall not affix, or cause to be affixed, to
13 any package of cigarettes of a nonparticipating manufacturer,
14 the stamp or imprints required under existing law after
15 receiving notice from the Department, which the Department
16 shall provide, that the nonparticipating manufacturer has not
17 paid in full the equity assessment imposed by this Section. A
18 person that has affixed the stamp or imprint required under
19 existing law to any package of cigarettes of a nonparticipating
20 manufacturer in violation of this subsection shall be subject
21 to the penalties provided in Section 24.

22 (g) Cigarettes of a nonparticipating manufacturer that has
23 not paid the equity assessment imposed by this Section shall be
24 treated as cigarettes of a nonparticipating manufacturer that
25 has not provided the certification required by Section 15 of
26 the Tobacco Products Manufacturers' Escrow Enforcement Act of
27 2003 and shall be treated as unstamped packages of cigarettes.

28 Section 99. Effective date. This Act takes effect upon
29 becoming law.