



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB2486

Introduced 10/15/2009, by Sen. Carole Pankau

#### SYNOPSIS AS INTRODUCED:

35 ILCS 130/3	from Ch. 120, par. 453.3
35 ILCS 130/5	from Ch. 120, par. 453.5
35 ILCS 135/3	from Ch. 120, par. 453.33

Amends the Cigarette Tax Act and the Cigarette Use Tax Act. Provides that tax stamps sold on or after July 1, 2010 must be counterfeit-resistant and encrypted with certain information. Provides that the stamps shall (i) be produced in a secure facility certified in accordance with the security assistance standards established in 2005 by the American National Standards Institute and the North American Security Products Organization, (ii) incorporate a minimum of 4 layers of overt, semi-covert, and covert data, and (iii) instantaneously capture encrypted data. Requires distributors to acquire certain necessary equipment and provide the encrypted data to the Department of Revenue in the form and manner required by the Department. Requires the Department of Revenue to retain the data using a secure system. Provides that any distributor having stamped packages of cigarettes in his or her possession on July 1, 2010 may continue to possess, deliver, or distribute those stamped cigarettes. Effective immediately.

LRB096 15094 HLH 30119 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Cigarette Tax Act is amended by changing  
5 Sections 3 and 5 as follows:

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 this  
9 Act shall (except as hereinafter provided) be evidenced by  
10 revenue tax stamps affixed to each original package of  
11 cigarettes. Each distributor of cigarettes, before delivering  
12 or causing to be delivered any original package of cigarettes  
13 in this State to a purchaser, shall firmly affix a proper stamp  
14 or stamps to each such package, or (in case of manufacturers of  
15 cigarettes in original packages which are contained inside a  
16 sealed transparent wrapper) shall imprint the required  
17 language on the original package of cigarettes beneath such  
18 outside wrapper, as hereinafter provided.

19 No stamp or imprint may be affixed to, or made upon, any  
20 package of cigarettes unless that package complies with all  
21 requirements of the federal Cigarette Labeling and Advertising  
22 Act, 15 U.S.C. 1331 and following, for the placement of labels,  
23 warnings, or any other information upon a package of cigarettes

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

12 In addition, stamps sold on or after July 1, 2010 must be  
13 counterfeit-resistant and encrypted to identify, at a minimum:  
14 (i) the name and address of the distributor affixing the stamp,  
15 (ii) the date the stamp was affixed to the cigarette package,  
16 and (iii) the denominated value of the stamp. Those stamps must  
17 be readable and traceable from the point of stamp production to  
18 the point of sale and must be readable by a scanner or similar  
19 device that may be used by the Department or by licensed  
20 cigarette distributors, wholesalers, and retailers.

21 Stamps sold on or after July 1, 2010 must (i) be produced  
22 in a secure facility certified in accordance with the security  
23 assistance standards established in 2005 by the American  
24 National Standards Institute and the North American Security  
25 Products Organization, (ii) incorporate a minimum of 4 layers  
26 of overt, semi-covert, and covert data, and (iii)

1 instantaneously capture encrypted data.

2 As soon as possible after July 1, 2010, distributors and  
3 other parties approved by the Department must acquire, either  
4 by lease, lease-to-own, or purchase, the equipment necessary to  
5 carry out the requirements of this Section, including equipment  
6 to affix stamps and equipment to read or scan information from  
7 stamps. The equipment must be approved by the Department.

8 Distributors must provide the encrypted data to the  
9 Department in the form and manner required by the Department by  
10 rule. The Department shall retain the data in a secure data  
11 collection, management, and decision support system.

12 Any distributor having stamped but non-encrypted packages  
13 of cigarettes in his or her possession on July 1, 2010 may  
14 continue to possess, deliver, or distribute those stamped  
15 cigarettes.

16 Only distributors licensed under this Act and  
17 transporters, as defined in Section 9c of this Act, may possess  
18 unstamped original packages of cigarettes. Prior to shipment to  
19 an Illinois retailer, a stamp shall be applied to each original  
20 package of cigarettes sold to the retailer. A distributor may  
21 apply tax stamps only to original packages of cigarettes  
22 purchased or obtained directly from an in-state maker,  
23 manufacturer, or fabricator licensed as a distributor under  
24 Section 4 of this Act or an out-of-state maker, manufacturer,  
25 or fabricator holding a permit under Section 4b of this Act. A  
26 licensed distributor may ship or otherwise cause to be

1 delivered unstamped original packages of cigarettes in, into,  
2 or from this State. A licensed distributor may transport  
3 unstamped original packages of cigarettes to a facility,  
4 wherever located, owned or controlled by such distributor;  
5 however, a distributor may not transport unstamped original  
6 packages of cigarettes to a facility where retail sales of  
7 cigarettes take place. Any licensed distributor that ships or  
8 otherwise causes to be delivered unstamped original packages of  
9 cigarettes into, within, or from this State shall ensure that  
10 the invoice or equivalent documentation and the bill of lading  
11 or freight bill for the shipment identifies the true name and  
12 address of the consignor or seller, the true name and address  
13 of the consignee or purchaser, and the quantity by brand style  
14 of the cigarettes so transported, provided that this Section  
15 shall not be construed as to impose any requirement or  
16 liability upon any common or contract carrier.

17 The Department, or any person authorized by the Department,  
18 shall sell such stamps only to persons holding valid licenses  
19 as distributors under this Act. On and after July 1, 2003,  
20 payment for such stamps must be made by means of electronic  
21 funds transfer. The Department may refuse to sell stamps to any  
22 person who does not comply with the provisions of this Act.  
23 Beginning on the effective date of this amendatory Act of the  
24 92nd General Assembly and through June 30, 2002, persons  
25 holding valid licenses as distributors may purchase cigarette  
26 tax stamps up to an amount equal to 115% of the distributor's

1 average monthly cigarette tax stamp purchases over the 12  
2 calendar months prior to the effective date of this amendatory  
3 Act of the 92nd General Assembly.

4 Prior to December 1, 1985, the Department shall allow a  
5 distributor 21 days in which to make final payment of the  
6 amount to be paid for such stamps, by allowing the distributor  
7 to make payment for the stamps at the time of purchasing them  
8 with a draft which shall be in such form as the Department  
9 prescribes, and which shall be payable within 21 days  
10 thereafter: Provided that such distributor has filed with the  
11 Department, and has received the Department's approval of, a  
12 bond, which is in addition to the bond required under Section 4  
13 of this Act, payable to the Department in an amount equal to  
14 80% of such distributor's average monthly tax liability to the  
15 Department under this Act during the preceding calendar year or  
16 \$500,000, whichever is less. The Bond shall be joint and  
17 several and shall be in the form of a surety company bond in  
18 such form as the Department prescribes, or it may be in the  
19 form of a bank certificate of deposit or bank letter of credit.  
20 The bond shall be conditioned upon the distributor's payment of  
21 amount of any 21-day draft which the Department accepts from  
22 that distributor for the delivery of stamps to that distributor  
23 under this Act. The distributor's failure to pay any such  
24 draft, when due, shall also make such distributor automatically  
25 liable to the Department for a penalty equal to 25% of the  
26 amount of such draft.

1           On and after December 1, 1985 and until July 1, 2003, the  
2 Department shall allow a distributor 30 days in which to make  
3 final payment of the amount to be paid for such stamps, by  
4 allowing the distributor to make payment for the stamps at the  
5 time of purchasing them with a draft which shall be in such  
6 form as the Department prescribes, and which shall be payable  
7 within 30 days thereafter, and beginning on January 1, 2003 and  
8 thereafter, the draft shall be payable by means of electronic  
9 funds transfer: Provided that such distributor has filed with  
10 the Department, and has received the Department's approval of,  
11 a bond, which is in addition to the bond required under Section  
12 4 of this Act, payable to the Department in an amount equal to  
13 150% of such distributor's average monthly tax liability to the  
14 Department under this Act during the preceding calendar year or  
15 \$750,000, whichever is less, except that as to bonds filed on  
16 or after January 1, 1987, such additional bond shall be in an  
17 amount equal to 100% of such distributor's average monthly tax  
18 liability under this Act during the preceding calendar year or  
19 \$750,000, whichever is less. The bond shall be joint and  
20 several and shall be in the form of a surety company bond in  
21 such form as the Department prescribes, or it may be in the  
22 form of a bank certificate of deposit or bank letter of credit.  
23 The bond shall be conditioned upon the distributor's payment of  
24 the amount of any 30-day draft which the Department accepts  
25 from that distributor for the delivery of stamps to that  
26 distributor under this Act. The distributor's failure to pay

1 any such draft, when due, shall also make such distributor  
2 automatically liable to the Department for a penalty equal to  
3 25% of the amount of such draft.

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



1 required to post bond or other acceptable security with the  
2 Department guaranteeing the payment of such admitted or  
3 established liability.

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

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

17 (1) Such taxpayer becomes a prior continuous compliance  
18 taxpayer; or

19 (2) Such taxpayer has ceased to collect receipts on which  
20 he is required to remit tax to the Department, has filed a  
21 final tax return, and has paid to the Department an amount  
22 sufficient to discharge his remaining tax liability as  
23 determined by the Department under this Act. The Department  
24 shall make a final determination of the taxpayer's outstanding  
25 tax liability as expeditiously as possible after his final tax  
26 return has been filed. If the Department cannot make such final

1 determination within 45 days after receiving the final tax  
2 return, within such period it shall so notify the taxpayer,  
3 stating its reasons therefor.

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

18 Illinois cigarette manufacturers who place their  
19 cigarettes in original packages which are contained inside a  
20 sealed transparent wrapper, and similar out-of-State cigarette  
21 manufacturers who elect to qualify and are accepted by the  
22 Department as distributors under Section 4b(a) of this Act,  
23 shall pay the taxes imposed by this Act by remitting the amount  
24 thereof to the Department by the 5th day of each month covering  
25 cigarettes shipped or otherwise delivered in Illinois to  
26 purchasers during the preceding calendar month. Such

1 manufacturers of cigarettes in original packages which are  
2 contained inside a sealed transparent wrapper, before  
3 delivering such cigarettes or causing such cigarettes to be  
4 delivered in this State to purchasers, shall evidence their  
5 obligation to remit the taxes due with respect to such  
6 cigarettes by imprinting language to be prescribed by the  
7 Department on each original package of such cigarettes  
8 underneath the sealed transparent outside wrapper of such  
9 original package, in such place thereon and in such manner as  
10 the Department may designate. Such imprinted language shall  
11 acknowledge the manufacturer's payment of or liability for the  
12 tax imposed by this Act with respect to the distribution of  
13 such cigarettes.

14 A distributor shall not affix, or cause to be affixed, any  
15 stamp or imprint to a package of cigarettes, as provided for in  
16 this Section, if the tobacco product manufacturer, as defined  
17 in Section 10 of the Tobacco Product Manufacturers' Escrow Act,  
18 that made or sold the cigarettes has failed to become a  
19 participating manufacturer, as defined in subdivision (a)(1)  
20 of Section 15 of the Tobacco Product Manufacturers' Escrow Act,  
21 or has failed to create a qualified escrow fund for any  
22 cigarettes manufactured by the tobacco product manufacturer  
23 and sold in this State or otherwise failed to bring itself into  
24 compliance with subdivision (a)(2) of Section 15 of the Tobacco  
25 Product Manufacturers' Escrow Act.

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

1 (35 ILCS 130/5) (from Ch. 120, par. 453.5)

2 Sec. 5. Printing tax stamps. Except as provided in Section  
3 3 of this Act, the ~~The~~ Department shall adopt the design or  
4 designs of the tax stamps or alternative tax indicia and shall  
5 procure the printing of such stamps or alternative tax indicia  
6 in such amounts and denominations as it deems necessary to  
7 provide for the affixation of the proper amount of tax stamps  
8 or alternative tax indicia to each original package of  
9 cigarettes.

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

11 Section 10. The Cigarette Use Tax Act is amended by  
12 changing Section 3 as follows:

13 (35 ILCS 135/3) (from Ch. 120, par. 453.33)

14 Sec. 3. Stamp payment. The tax hereby imposed shall be  
15 collected by a distributor maintaining a place of business in  
16 this State or a distributor authorized by the Department  
17 pursuant to Section 7 hereof to collect the tax, and the amount  
18 of the tax shall be added to the price of the cigarettes sold  
19 by such distributor. Collection of the tax shall be evidenced  
20 by a stamp or stamps affixed to each original package of  
21 cigarettes or by an authorized substitute for such stamp  
22 imprinted on each original package of such cigarettes  
23 underneath the sealed transparent outside wrapper of such

1 original package, except as hereinafter provided. Each  
2 distributor who is required or authorized to collect the tax  
3 herein imposed, before delivering or causing to be delivered  
4 any original packages of cigarettes in this State to any  
5 purchaser, shall firmly affix a proper stamp or stamps to each  
6 such package, or (in the case of manufacturers of cigarettes in  
7 original packages which are contained inside a sealed  
8 transparent wrapper) shall imprint the required language on the  
9 original package of cigarettes beneath such outside wrapper as  
10 hereinafter provided. Such stamp or stamps need not be affixed  
11 to the original package of any cigarettes with respect to which  
12 the distributor is required to affix a like stamp or stamps by  
13 virtue of the Cigarette Tax Act, however, and no tax imprint  
14 need be placed underneath the sealed transparent wrapper of an  
15 original package of cigarettes with respect to which the  
16 distributor is required or authorized to employ a like tax  
17 imprint by virtue of the Cigarette Tax Act.

18 No stamp or imprint may be affixed to, or made upon, any  
19 package of cigarettes unless that package complies with all  
20 requirements of the federal Cigarette Labeling and Advertising  
21 Act, 15 U.S.C. 1331 and following, for the placement of labels,  
22 warnings, or any other information upon a package of cigarettes  
23 that is sold within the United States. Under the authority of  
24 Section 6, the Department shall revoke the license of any  
25 distributor that is determined to have violated this paragraph.  
26 A person may not affix a stamp on a package of cigarettes,

1 cigarette papers, wrappers, or tubes if that individual package  
2 has been marked for export outside the United States with a  
3 label or notice in compliance with Section 290.185 of Title 27  
4 of the Code of Federal Regulations. It is not a defense to a  
5 proceeding for violation of this paragraph that the label or  
6 notice has been removed, mutilated, obliterated, or altered in  
7 any manner.

8 In addition, stamps sold on or after July 1, 2010 must be  
9 counterfeit-resistant and encrypted to identify, at a minimum:  
10 (i) the name and address of the distributor affixing the stamp,  
11 (ii) the date the stamp was affixed to the cigarette package,  
12 and (iii) the denominated value of the stamp. Those stamps must  
13 be readable and traceable from the point of stamp production to  
14 the point of sale and must be readable by a scanner or similar  
15 device that may be used by the Department or by licensed  
16 cigarette distributors, wholesalers, and retailers.

17 Stamps sold on or after July 1, 2010 must (i) be produced  
18 in a secure facility certified in accordance with the security  
19 assistance standards established in 2005 by the American  
20 National Standards Institute and the North American Security  
21 Products Organization, (ii) incorporate a minimum of 4 layers  
22 of overt, semi-covert, and covert data, and (iii)  
23 instantaneously capture encrypted data.

24 As soon as possible after July 1, 2010, distributors and  
25 other parties approved by the Department must acquire, either  
26 by lease, lease-to-own, or purchase, the equipment necessary to

1 carry out the requirements of this Section, including equipment  
2 to affix stamps and equipment to read or scan information from  
3 stamps. The equipment must be approved by the Department.

4 Distributors must provide the encrypted data to the  
5 Department in the form and manner required by the Department by  
6 rule. The Department shall retain the data in a secure data  
7 collection, management, and decision support system.

8 Any distributor having stamped but non-encrypted packages  
9 of cigarettes in his or her possession on July 1, 2010 may  
10 continue to possess, deliver, or distribute those stamped  
11 cigarettes.

12 Only distributors licensed under this Act and  
13 transporters, as defined in Section 9c of the Cigarette Tax  
14 Act, may possess unstamped original packages of cigarettes.  
15 Prior to shipment to an Illinois retailer, a stamp shall be  
16 applied to each original package of cigarettes sold to the  
17 retailer. A distributor may apply a tax stamp only to an  
18 original package of cigarettes purchased or obtained directly  
19 from an in-state maker, manufacturer, or fabricator licensed as  
20 a distributor under Section 4 of this Act or an out-of-state  
21 maker, manufacturer, or fabricator holding a permit under  
22 Section 7 of this Act. A licensed distributor may ship or  
23 otherwise cause to be delivered unstamped original packages of  
24 cigarettes in, into, or from this State. A licensed distributor  
25 may transport unstamped original packages of cigarettes to a  
26 facility, wherever located, owned or controlled by such

1 distributor; however, a distributor may not transport  
2 unstamped original packages of cigarettes to a facility where  
3 retail sales of cigarettes take place. Any licensed distributor  
4 that ships or otherwise causes to be delivered unstamped  
5 original packages of cigarettes into, within, or from this  
6 State shall ensure that the invoice or equivalent documentation  
7 and the bill of lading or freight bill for the shipment  
8 identifies the true name and address of the consignor or  
9 seller, the true name and address of the consignee or  
10 purchaser, and the quantity by brand style of the cigarettes so  
11 transported, provided that this Section shall not be construed  
12 as to impose any requirement or liability upon any common or  
13 contract carrier.

14 Stamps, when required hereunder, shall be purchased from  
15 the Department, or any person authorized by the Department, by  
16 distributors. On and after July 1, 2003, payment for such  
17 stamps must be made by means of electronic funds transfer. The  
18 Department may refuse to sell stamps to any person who does not  
19 comply with the provisions of this Act. Beginning on June 6,  
20 2002 and through June 30, 2002, persons holding valid licenses  
21 as distributors may purchase cigarette tax stamps up to an  
22 amount equal to 115% of the distributor's average monthly  
23 cigarette tax stamp purchases over the 12 calendar months prior  
24 to June 6, 2002.

25 Prior to December 1, 1985, the Department shall allow a  
26 distributor 21 days in which to make final payment of the



1 amount to be paid for such stamps, by allowing the distributor  
2 to make payment for the stamps at the time of purchasing them  
3 with a draft which shall be in such form as the Department  
4 prescribes, and which shall be payable within 21 days  
5 thereafter: Provided that such distributor has filed with the  
6 Department, and has received the Department's approval of, a  
7 bond, which is in addition to the bond required under Section 4  
8 of this Act, payable to the Department in an amount equal to  
9 80% of such distributor's average monthly tax liability to the  
10 Department under this Act during the preceding calendar year or  
11 \$500,000, whichever is less. The bond shall be joint and  
12 several and shall be in the form of a surety company bond in  
13 such form as the Department prescribes, or it may be in the  
14 form of a bank certificate of deposit or bank letter of credit.  
15 The bond shall be conditioned upon the distributor's payment of  
16 the amount of any 21-day draft which the Department accepts  
17 from that distributor for the delivery of stamps to that  
18 distributor under this Act. The distributor's failure to pay  
19 any such draft, when due, shall also make such distributor  
20 automatically liable to the Department for a penalty equal to  
21 25% of the amount of such draft.

22 On and after December 1, 1985 and until July 1, 2003, the  
23 Department shall allow a distributor 30 days in which to make  
24 final payment of the amount to be paid for such stamps, by  
25 allowing the distributor to make payment for the stamps at the  
26 time of purchasing them with a draft which shall be in such

1 form as the Department prescribes, and which shall be payable  
2 within 30 days thereafter, and beginning on January 1, 2003 and  
3 thereafter, the draft shall be payable by means of electronic  
4 funds transfer: Provided that such distributor has filed with  
5 the Department, and has received the Department's approval of,  
6 a bond, which is in addition to the bond required under Section  
7 4 of this Act, payable to the Department in an amount equal to  
8 150% of such distributor's average monthly tax liability to the  
9 Department under this Act during the preceding calendar year or  
10 \$750,000, whichever is less, except that as to bonds filed on  
11 or after January 1, 1987, such additional bond shall be in an  
12 amount equal to 100% of such distributor's average monthly tax  
13 liability under this Act during the preceding calendar year or  
14 \$750,000, whichever is less. The bond shall be joint and  
15 several and shall be in the form of a surety company bond in  
16 such form as the Department prescribes, or it may be in the  
17 form of a bank certificate of deposit or bank letter of credit.  
18 The bond shall be conditioned upon the distributor's payment of  
19 the amount of any 30-day draft which the Department accepts  
20 from that distributor for the delivery of stamps to that  
21 distributor under this Act. The distributor's failure to pay  
22 any such draft, when due, shall also make such distributor  
23 automatically liable to the Department for a penalty equal to  
24 25% of the amount of such draft.

25 Every prior continuous compliance taxpayer shall be exempt  
26 from all requirements under this Section concerning the

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

25         Any person aggrieved by any decision of the Department  
26     under this Section may, within the time allowed by law, protest

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

8 The Department shall discharge any surety and shall release  
9 and return any bond or security deposited, assigned, pledged,  
10 or otherwise provided to it by a taxpayer under this Section  
11 within 30 days after:

12 (1) such Taxpayer becomes a prior continuous  
13 compliance taxpayer; or

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

26 At the time of purchasing such stamps from the Department

1 when purchase is required by this Act, or at the time when the  
2 tax which he has collected is remitted by a distributor to the  
3 Department without the purchase of stamps from the Department  
4 when that method of remitting the tax that has been collected  
5 is required or authorized by this Act, the distributor shall be  
6 allowed a discount during any year commencing July 1 and ending  
7 the following June 30 in accordance with the schedule set out  
8 hereinbelow, from the amount to be paid by him to the  
9 Department for such stamps, or to be paid by him to the  
10 Department on the basis of monthly remittances (as the case may  
11 be), to cover the cost, to such distributor, of collecting the  
12 tax herein imposed by affixing such stamps to the original  
13 packages of cigarettes sold by such distributor or by placing  
14 tax imprints underneath the sealed transparent wrapper of  
15 original packages of cigarettes sold by such distributor (as  
16 the case may be): (1) Prior to December 1, 1985, a discount  
17 equal to  $1\frac{2}{3}\%$  of the amount of the tax up to and including  
18 the first \$700,000 paid hereunder by such distributor to the  
19 Department during any such year;  $1\frac{1}{3}\%$  of the next \$700,000 of  
20 tax or any part thereof, paid hereunder by such distributor to  
21 the Department during any such year; 1% of the next \$700,000 of  
22 tax, or any part thereof, paid hereunder by such distributor to  
23 the Department during any such year; and  $\frac{2}{3}$  of 1% of the  
24 amount of any additional tax paid hereunder by such distributor  
25 to the Department during any such year or (2) On and after  
26 December 1, 1985, a discount equal to 1.75% of the amount of

1 the tax payable under this Act up to and including the first  
2 \$3,000,000 paid hereunder by such distributor to the Department  
3 during any such year and 1.5% of the amount of any additional  
4 tax paid hereunder by such distributor to the Department during  
5 any such year.

6 Two or more distributors that use a common means of  
7 affixing revenue tax stamps or that are owned or controlled by  
8 the same interests shall be treated as a single distributor for  
9 the purpose of computing the discount.

10 Cigarette manufacturers who are distributors under Section  
11 7(a) of this Act, and who place their cigarettes in original  
12 packages which are contained inside a sealed transparent  
13 wrapper, shall be required to remit the tax which they are  
14 required to collect under this Act to the Department by  
15 remitting the amount thereof to the Department by the 5th day  
16 of each month, covering cigarettes shipped or otherwise  
17 delivered to points in Illinois to purchasers during the  
18 preceding calendar month, but a distributor need not remit to  
19 the Department the tax so collected by him from purchasers  
20 under this Act to the extent to which such distributor is  
21 required to remit the tax imposed by the Cigarette Tax Act to  
22 the Department with respect to the same cigarettes. All taxes  
23 upon cigarettes under this Act are a direct tax upon the retail  
24 consumer and shall conclusively be presumed to be precollected  
25 for the purpose of convenience and facility only. Cigarette  
26 manufacturers that are distributors licensed under Section

1 7(a) of this Act and who place their cigarettes in original  
2 packages which are contained inside a sealed transparent  
3 wrapper, before delivering such cigarettes or causing such  
4 cigarettes to be delivered in this State to purchasers, shall  
5 evidence their obligation to collect and remit the tax due with  
6 respect to such cigarettes by imprinting language to be  
7 prescribed by the Department on each original package of such  
8 cigarettes underneath the sealed transparent outside wrapper  
9 of such original package, in such place thereon and in such  
10 manner as the Department may prescribe; provided (as stated  
11 hereinbefore) that this requirement does not apply when such  
12 distributor is required or authorized by the Cigarette Tax Act  
13 to place the tax imprint provided for in the last paragraph of  
14 Section 3 of that Act underneath the sealed transparent wrapper  
15 of such original package of cigarettes. Such imprinted language  
16 shall acknowledge the manufacturer's collection and payment of  
17 or liability for the tax imposed by this Act with respect to  
18 such cigarettes.

19 Except as otherwise provided in this Section, the ~~The~~  
20 Department shall adopt the design or designs of the tax stamps  
21 and shall procure the printing of such stamps in such amounts  
22 and denominations as it deems necessary to provide for the  
23 affixation of the proper amount of tax stamps to each original  
24 package of cigarettes.

25 Where tax stamps are required, the Department may authorize  
26 distributors to affix revenue tax stamps by imprinting tax

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

13 The tax hereby imposed and not paid pursuant to this  
14 Section shall be paid to the Department directly by any person  
15 using such cigarettes within this State, pursuant to Section 12  
16 hereof.

17 A distributor shall not affix, or cause to be affixed, any  
18 stamp or imprint to a package of cigarettes, as provided for in  
19 this Section, if the tobacco product manufacturer, as defined  
20 in Section 10 of the Tobacco Product Manufacturers' Escrow Act,  
21 that made or sold the cigarettes has failed to become a  
22 participating manufacturer, as defined in subdivision (a)(1)  
23 of Section 15 of the Tobacco Product Manufacturers' Escrow Act,  
24 or has failed to create a qualified escrow fund for any  
25 cigarettes manufactured by the tobacco product manufacturer  
26 and sold in this State or otherwise failed to bring itself into



1 compliance with subdivision (a) (2) of Section 15 of the Tobacco  
2 Product Manufacturers' Escrow Act.

3 (Source: P.A. 96-782, eff. 1-1-10.)

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.