

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 1 and 2 as follows:

6 (35 ILCS 130/1) (from Ch. 120, par. 453.1)

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

8 "Brand Style" means a variety of cigarettes distinguished  
9 by the tobacco used, tar and nicotine content, flavoring used,  
10 size of the cigarette, filtration on the cigarette or  
11 packaging.

12 Until July 1, 2012, and beginning July 1, 2013,  
13 "cigarette", means any roll for smoking made wholly or in part  
14 of tobacco irrespective of size or shape and whether or not  
15 such tobacco is flavored, adulterated or mixed with any other  
16 ingredient, and the wrapper or cover of which is made of paper  
17 or any other substance or material except tobacco.

18 "Cigarette", beginning on and after July 1, 2012, and  
19 through June 30, 2013, means any roll for smoking made wholly  
20 or in part of tobacco irrespective of size or shape and whether  
21 or not such tobacco is flavored, adulterated, or mixed with any  
22 other ingredient, and the wrapper or cover of which is made of  
23 paper.

1 "Cigarette", beginning on and after July 1, 2012, and  
2 through June 30, 2013, also shall mean: Any roll for smoking  
3 made wholly or in part of tobacco labeled as anything other  
4 than a cigarette or not bearing a label, if it meets two or  
5 more of the following criteria:

6 (a) the product is sold in packs similar to cigarettes;

7 (b) the product is available for sale in cartons of ten  
8 packs;

9 (c) the product is sold in soft packs, hard packs,  
10 flip-top boxes, clam shells, or other cigarette-type  
11 boxes;

12 (d) the product is of a length and diameter similar to  
13 commercially manufactured cigarettes;

14 (e) the product has a cellulose acetate or other  
15 integrated filter;

16 (f) the product is marketed or advertised to consumers  
17 as a cigarette or cigarette substitute; or

18 (g) other evidence that the product fits within the  
19 definition of cigarette.

20 "Contraband cigarettes" means:

21 (a) cigarettes that do not bear a required tax stamp  
22 under this Act;

23 (b) cigarettes for which any required federal taxes  
24 have not been paid;

25 (c) cigarettes that bear a counterfeit tax stamp;

26 (d) cigarettes that are manufactured, fabricated,

1 assembled, processed, packaged, or labeled by any person  
2 other than (i) the owner of the trademark rights in the  
3 cigarette brand or (ii) a person that is directly or  
4 indirectly authorized by such owner;

5 (e) cigarettes imported into the United States, or  
6 otherwise distributed, in violation of the federal  
7 Imported Cigarette Compliance Act of 2000 (Title IV of  
8 Public Law 106-476);

9 (f) cigarettes that have false manufacturing labels;

10 (g) cigarettes identified in Section 3-10(a)(1) of  
11 this Act;

12 (h) cigarettes that are improperly tax stamped,  
13 including cigarettes that bear a tax stamp of another state  
14 or taxing jurisdiction; or

15 (i) cigarettes made or fabricated by a person holding a  
16 cigarette machine operator license under Section 1-20 of  
17 the Cigarette Machine Operators' Occupation Tax Act in the  
18 possession of manufacturers, distributors, secondary  
19 distributors, manufacturer representatives or other  
20 retailers for the purpose of resale, regardless of whether  
21 the tax has been paid on such cigarettes.

22 "Little cigar" has the meaning ascribed to that term in the  
23 Tobacco Products Tax Act of 1995.

24 "Person" means any natural individual, firm, partnership,  
25 association, joint stock company, joint adventure, public or  
26 private corporation, however formed, limited liability

1 company, or a receiver, executor, administrator, trustee,  
2 guardian or other representative appointed by order of any  
3 court.

4 "Prior Continuous Compliance Taxpayer" means any person  
5 who is licensed under this Act and who, having been a licensee  
6 for a continuous period of 5 years, is determined by the  
7 Department not to have been either delinquent or deficient in  
8 the payment of tax liability during that period or otherwise in  
9 violation of this Act. Also, any taxpayer who has, as verified  
10 by the Department, continuously complied with the condition of  
11 his bond or other security under provisions of this Act for a  
12 period of 5 consecutive years shall be considered to be a  
13 "Prior continuous compliance taxpayer". In calculating the  
14 consecutive period of time described herein for qualification  
15 as a "prior continuous compliance taxpayer", a consecutive  
16 period of time of qualifying compliance immediately prior to  
17 the effective date of this amendatory Act of 1987 shall be  
18 credited to any licensee who became licensed on or before the  
19 effective date of this amendatory Act of 1987.

20 "Department" means the Department of Revenue.

21 "Sale" means any transfer, exchange or barter in any manner  
22 or by any means whatsoever for a consideration, and includes  
23 and means all sales made by any person.

24 "Original Package" means the individual packet, box or  
25 other container whatsoever used to contain and to convey  
26 cigarettes to the consumer.

1 "Distributor" means any and each of the following:

2 (1) Any person engaged in the business of selling  
3 cigarettes in this State who brings or causes to be brought  
4 into this State from without this State any original  
5 packages of cigarettes, on which original packages there is  
6 no authorized evidence underneath a sealed transparent  
7 wrapper showing that the tax liability imposed by this Act  
8 has been paid or assumed by the out-of-State seller of such  
9 cigarettes, for sale or other disposition in the course of  
10 such business.

11 (2) Any person who makes, manufactures or fabricates  
12 cigarettes in this State for sale in this State, except a  
13 person who makes, manufactures or fabricates cigarettes as  
14 a part of a correctional industries program for sale to  
15 residents incarcerated in penal institutions or resident  
16 patients of a State-operated mental health facility.

17 (3) Any person who makes, manufactures or fabricates  
18 cigarettes outside this State, which cigarettes are placed  
19 in original packages contained in sealed transparent  
20 wrappers, for delivery or shipment into this State, and who  
21 elects to qualify and is accepted by the Department as a  
22 distributor under Section 4b of this Act.

23 "Place of business" shall mean and include any place where  
24 cigarettes are sold or where cigarettes are manufactured,  
25 stored or kept for the purpose of sale or consumption,  
26 including any vessel, vehicle, airplane, train or vending

1 machine.

2 "Manufacturer representative" means a director, officer,  
3 or employee of a manufacturer who has obtained authority from  
4 the Department under Section 4f to maintain representatives in  
5 Illinois that provide or sell original packages of cigarettes  
6 made, manufactured, or fabricated by the manufacturer to  
7 retailers in compliance with Section 4f of this Act to promote  
8 cigarettes made, manufactured, or fabricated by the  
9 manufacturer.

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

13 "Retailer" means any person who engages in the making of  
14 transfers of the ownership of, or title to, cigarettes to a  
15 purchaser for use or consumption and not for resale in any  
16 form, for a valuable consideration. "Retailer" does not include  
17 a person:

18 (1) who transfers to residents incarcerated in penal  
19 institutions or resident patients of a State-operated  
20 mental health facility ownership of cigarettes made,  
21 manufactured, or fabricated as part of a correctional  
22 industries program; or

23 (2) who transfers cigarettes to a not-for-profit  
24 research institution that conducts tests concerning the  
25 health effects of tobacco products and who does not offer  
26 the cigarettes for resale.

1 "Retailer" shall be construed to include any person who  
2 engages in the making of transfers of the ownership of, or  
3 title to, cigarettes to a purchaser, for use or consumption by  
4 any other person to whom such purchaser may transfer the  
5 cigarettes without a valuable consideration, except a person  
6 who transfers to residents incarcerated in penal institutions  
7 or resident patients of a State-operated mental health facility  
8 ownership of cigarettes made, manufactured or fabricated as  
9 part of a correctional industries program.

10 "Secondary distributor" means any person engaged in the  
11 business of selling cigarettes who purchases stamped original  
12 packages of cigarettes from a licensed distributor under this  
13 Act or the Cigarette Use Tax Act, sells 75% or more of those  
14 cigarettes to retailers for resale, and maintains an  
15 established business where a substantial stock of cigarettes is  
16 available to retailers for resale.

17 "Stamp" or "stamps" mean the indicia required to be affixed  
18 on a pack of cigarettes that evidence payment of the tax on  
19 cigarettes under Section 2 of this Act.

20 "Related party" means any person that is associated with  
21 any other person because he or she:

22 (a) is an officer or director of a business; or

23 (b) is legally recognized as a partner in business.

24 (Source: P.A. 96-782, eff. 1-1-10; 96-1027, eff. 7-12-10;  
25 97-587, eff. 8-26-11; 97-688, eff. 6-14-12.)

1 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

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

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



1 business in this State. On and after the effective date of this  
2 amendatory Act of 1993, in addition to any other tax imposed by  
3 this Act, a tax is imposed upon any person engaged in business  
4 as a retailer of cigarettes at the rate of 7 mills per  
5 cigarette sold or otherwise disposed of in the course of such  
6 business in this State. On and after December 15, 1997, in  
7 addition to any other tax imposed by this Act, a tax is imposed  
8 upon any person engaged in business as a retailer of cigarettes  
9 at the rate of 7 mills per cigarette sold or otherwise disposed  
10 of in the course of such business of this State. All of the  
11 moneys received by the Department of Revenue pursuant to this  
12 Act and the Cigarette Use Tax Act from the additional taxes  
13 imposed by this amendatory Act of 1997, shall be paid each  
14 month into the Common School Fund. On and after July 1, 2002,  
15 in addition to any other tax imposed by this Act, a tax is  
16 imposed upon any person engaged in business as a retailer of  
17 cigarettes at the rate of 20.0 mills per cigarette sold or  
18 otherwise disposed of in the course of such business in this  
19 State. Beginning on June 24, 2012, in addition to any other tax  
20 imposed by this Act, a tax is imposed upon any person engaged  
21 in business as a retailer of cigarettes at the rate of 50 mills  
22 per cigarette sold or otherwise disposed of in the course of  
23 such business in this State. All moneys received by the  
24 Department of Revenue under this Act and the Cigarette Use Tax  
25 Act from the additional taxes imposed by this amendatory Act of  
26 the 97th General Assembly shall be paid each month into the

1 Healthcare Provider Relief Fund. The payment of such taxes  
2 shall be evidenced by a stamp affixed to each original package  
3 of cigarettes, or an authorized substitute for such stamp  
4 imprinted on each original package of such cigarettes  
5 underneath the sealed transparent outside wrapper of such  
6 original package, as hereinafter provided. However, such taxes  
7 are not imposed upon any activity in such business in  
8 interstate commerce or otherwise, which activity may not under  
9 the Constitution and statutes of the United States be made the  
10 subject of taxation by this State.

11 Beginning on the effective date of this amendatory Act of  
12 the 92nd General Assembly and through June 30, 2006, all of the  
13 moneys received by the Department of Revenue pursuant to this  
14 Act and the Cigarette Use Tax Act, other than the moneys that  
15 are dedicated to the Common School Fund, shall be distributed  
16 each month as follows: first, there shall be paid into the  
17 General Revenue Fund an amount which, when added to the amount  
18 paid into the Common School Fund for that month, equals  
19 \$33,300,000, except that in the month of August of 2004, this  
20 amount shall equal \$83,300,000; then, from the moneys  
21 remaining, if any amounts required to be paid into the General  
22 Revenue Fund in previous months remain unpaid, those amounts  
23 shall be paid into the General Revenue Fund; then, beginning on  
24 April 1, 2003, from the moneys remaining, \$5,000,000 per month  
25 shall be paid into the School Infrastructure Fund; then, if any  
26 amounts required to be paid into the School Infrastructure Fund

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

17 Beginning on July 1, 2006, all of the moneys received by  
18 the Department of Revenue pursuant to this Act and the  
19 Cigarette Use Tax Act, other than the moneys that are dedicated  
20 to the Common School Fund and, beginning on the effective date  
21 of this amendatory Act of the 97th General Assembly, other than  
22 the moneys from the additional taxes imposed by this amendatory  
23 Act of the 97th General Assembly that must be paid each month  
24 into the Healthcare Provider Relief Fund, shall be distributed  
25 each month as follows: first, there shall be paid into the  
26 General Revenue Fund an amount that, when added to the amount

1 paid into the Common School Fund for that month, equals  
2 \$29,200,000; then, from the moneys remaining, if any amounts  
3 required to be paid into the General Revenue Fund in previous  
4 months remain unpaid, those amounts shall be paid into the  
5 General Revenue Fund; then from the moneys remaining,  
6 \$5,000,000 per month shall be paid into the School  
7 Infrastructure Fund; then, if any amounts required to be paid  
8 into the School Infrastructure Fund in previous months remain  
9 unpaid, those amounts shall be paid into the School  
10 Infrastructure Fund; then the moneys remaining, if any, shall  
11 be paid into the Long-Term Care Provider Fund.

12 Moneys collected from the tax imposed on little cigars  
13 under Section 10-10 of the Tobacco Products Tax Act of 1995  
14 shall be included with the moneys collected under the Cigarette  
15 Tax Act and the Cigarette Use Tax Act when making distributions  
16 to the Common School Fund, the Healthcare Provider Relief Fund,  
17 the General Revenue Fund, the School Infrastructure Fund, and  
18 the Long-Term Care Provider Fund under this Section.

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

1 Department by such distributor.

2 The impact of the tax levied by this Act is imposed upon  
3 the retailer and shall be prepaid or pre-collected by the  
4 distributor for the purpose of convenience and facility only,  
5 and the amount of the tax shall be added to the price of the  
6 cigarettes sold by such distributor. Collection of the tax  
7 shall be evidenced by a stamp or stamps affixed to each  
8 original package of cigarettes, as hereinafter provided.

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

1 1993, or on the first due date of a return under this Act after  
2 the effective date of this amendatory Act of 1993, whichever  
3 occurs first. Any distributor having cigarettes to which stamps  
4 have been affixed in his possession for sale on December 15,  
5 1997 shall not be required to pay the additional tax imposed by  
6 this amendatory Act of 1997 on such stamped cigarettes.

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

12 Any retailer having cigarettes in his or her possession on  
13 June 24, 2012 to which tax stamps have been affixed is not  
14 required to pay the additional tax that begins on June 24, 2012  
15 imposed by this amendatory Act of the 97th General Assembly on  
16 those stamped cigarettes. Any distributor having cigarettes in  
17 his or her possession on June 24, 2012 to which tax stamps have  
18 been affixed, and any distributor having stamps in his or her  
19 possession on June 24, 2012 that have not been affixed to  
20 packages of cigarettes before June 24, 2012, is required to pay  
21 the additional tax that begins on June 24, 2012 imposed by this  
22 amendatory Act of the 97th General Assembly to the extent the  
23 calendar year 2012 average monthly volume of cigarette stamps  
24 in the distributor's possession exceeds the average monthly  
25 volume of cigarette stamps purchased by the distributor in  
26 calendar year 2011. This payment, less the discount provided in

1 subsection (b), is due when the distributor first makes a  
2 purchase of cigarette stamps on or after June 24, 2012 or on  
3 the first due date of a return under this Act occurring on or  
4 after June 24, 2012, whichever occurs first. Those distributors  
5 may elect to pay the additional tax on packages of cigarettes  
6 to which stamps have been affixed and on any stamps in the  
7 distributor's possession that have not been affixed to packages  
8 of cigarettes over a period not to exceed 12 months from the  
9 due date of the additional tax by notifying the Department in  
10 writing. The first payment for distributors making such  
11 election is due when the distributor first makes a purchase of  
12 cigarette tax stamps on or after June 24, 2012 or on the first  
13 due date of a return under this Act occurring on or after June  
14 24, 2012, whichever occurs first. Distributors making such an  
15 election are not entitled to take the discount provided in  
16 subsection (b) on such payments.

17 Distributors making sales of cigarettes to secondary  
18 distributors shall add the amount of the tax to the price of  
19 the cigarettes sold by the distributors. Secondary  
20 distributors making sales of cigarettes to retailers shall  
21 include the amount of the tax in the price of the cigarettes  
22 sold to retailers. The amount of tax shall not be less than the  
23 amount of taxes imposed by the State and all local  
24 jurisdictions. The amount of local taxes shall be calculated  
25 based on the location of the retailer's place of business shown  
26 on the retailer's certificate of registration or

1 sub-registration issued to the retailer pursuant to Section 2a  
2 of the Retailers' Occupation Tax Act. The original packages of  
3 cigarettes sold to the retailer shall bear all the required  
4 stamps, or other indicia, for the taxes included in the price  
5 of cigarettes.

6 The amount of the Cigarette Tax imposed by this Act shall  
7 be separately stated, apart from the price of the goods, by  
8 distributors, manufacturer representatives, secondary  
9 distributors, and retailers, in all bills and sales invoices.

10 (b) The distributor shall be required to collect the taxes  
11 provided under paragraph (a) hereof, and, to cover the costs of  
12 such collection, shall be allowed a discount during any year  
13 commencing July 1st and ending the following June 30th in  
14 accordance with the schedule set out hereinbelow, which  
15 discount shall be allowed at the time of purchase of the stamps  
16 when purchase is required by this Act, or at the time when the  
17 tax is remitted to the Department without the purchase of  
18 stamps from the Department when that method of paying the tax  
19 is required or authorized by this Act. Prior to December 1,  
20 1985, a discount equal to  $1\frac{2}{3}\%$  of the amount of the tax up to  
21 and including the first \$700,000 paid hereunder by such  
22 distributor to the Department during any such year;  $1\frac{1}{3}\%$  of  
23 the next \$700,000 of tax or any part thereof, paid hereunder by  
24 such distributor to the Department during any such year; 1% of  
25 the next \$700,000 of tax, or any part thereof, paid hereunder  
26 by such distributor to the Department during any such year, and



1 2/3 of 1% of the amount of any additional tax paid hereunder by  
2 such distributor to the Department during any such year shall  
3 apply. On and after December 1, 1985, a discount equal to 1.75%  
4 of the amount of the tax payable under this Act up to and  
5 including the first \$3,000,000 paid hereunder by such  
6 distributor to the Department during any such year and 1.5% of  
7 the amount of any additional tax paid hereunder by such  
8 distributor to the Department during any such year shall apply.

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

13 (c) The taxes herein imposed are in addition to all other  
14 occupation or privilege taxes imposed by the State of Illinois,  
15 or by any political subdivision thereof, or by any municipal  
16 corporation.

17 (Source: P.A. 96-1027, eff. 7-12-10; 97-587, eff. 8-26-11;  
18 97-688, eff. 6-14-12.)

19 Section 10. The Cigarette Use Tax Act is amended by  
20 changing Section 1 as follows:

21 (35 ILCS 135/1) (from Ch. 120, par. 453.31)

22 Sec. 1. For the purpose of this Act, unless otherwise  
23 required by the context:

24 "Use" means the exercise by any person of any right or

1 power over cigarettes incident to the ownership or possession  
2 thereof, other than the making of a sale thereof in the course  
3 of engaging in a business of selling cigarettes and shall  
4 include the keeping or retention of cigarettes for use, except  
5 that "use" does not include the use of cigarettes by a  
6 not-for-profit research institution conducting tests  
7 concerning the health effects of tobacco products, provided the  
8 cigarettes are not offered for resale.

9 "Brand Style" means a variety of cigarettes distinguished  
10 by the tobacco used, tar and nicotine content, flavoring used,  
11 size of the cigarette, filtration on the cigarette or  
12 packaging.

13 Until July 1, 2012, and beginning July 1, 2013, "cigarette"  
14 means any roll for smoking made wholly or in part of tobacco  
15 irrespective of size or shape and whether or not such tobacco  
16 is flavored, adulterated or mixed with any other ingredient,  
17 and the wrapper or cover of which is made of paper or any other  
18 substance or material except tobacco.

19 "Cigarette", beginning on and after July 1, 2012, and  
20 through June 30, 2013, means any roll for smoking made wholly  
21 or in part of tobacco irrespective of size or shape and whether  
22 or not such tobacco is flavored, adulterated or mixed with any  
23 other ingredient, and the wrapper or cover of which is made of  
24 paper.

25 "Cigarette", beginning on and after July 1, 2012, and  
26 through June 30, 2013, also shall mean: Any roll for smoking

1 made wholly or in part of tobacco labeled as anything other  
2 than a cigarette or not bearing a label, if it meets two or  
3 more of the following criteria:

4 (a) the product is sold in packs similar to cigarettes;

5 (b) the product is available for sale in cartons of ten  
6 packs;

7 (c) the product is sold in soft packs, hard packs,  
8 flip-top boxes, clam shells, or other cigarette-type  
9 boxes;

10 (d) the product is of a length and diameter similar to  
11 commercially manufactured cigarettes;

12 (e) the product has a cellulose acetate or other  
13 integrated filter;

14 (f) the product is marketed or advertised to consumers  
15 as a cigarette or cigarette substitute; or

16 (g) other evidence that the product fits within the  
17 definition of cigarette.

18 "Contraband cigarettes" means:

19 (a) cigarettes that do not bear a required tax stamp  
20 under this Act;

21 (b) cigarettes for which any required federal taxes  
22 have not been paid;

23 (c) cigarettes that bear a counterfeit tax stamp;

24 (d) cigarettes that are manufactured, fabricated,  
25 assembled, processed, packaged, or labeled by any person  
26 other than (i) the owner of the trademark rights in the

1 cigarette brand or (ii) a person that is directly or  
2 indirectly authorized by such owner;

3 (e) cigarettes imported into the United States, or  
4 otherwise distributed, in violation of the federal  
5 Imported Cigarette Compliance Act of 2000 (Title IV of  
6 Public Law 106-476);

7 (f) cigarettes that have false manufacturing labels;

8 (g) cigarettes identified in Section 3-10(a)(1) of  
9 this Act;

10 (h) cigarettes that are improperly tax stamped,  
11 including cigarettes that bear a tax stamp of another state  
12 or taxing jurisdiction; or

13 (i) cigarettes made or fabricated by a person holding a  
14 cigarette machine operator license under Section 1-20 of  
15 the Cigarette Machine Operators' Occupation Tax Act in the  
16 possession of manufacturers, distributors, secondary  
17 distributors, manufacturer representatives or other  
18 retailers for the purpose of resale, regardless of whether  
19 the tax has been paid on such cigarettes.

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 "Department" means the Department of Revenue.

1 "Sale" means any transfer, exchange or barter in any manner  
2 or by any means whatsoever for a consideration, and includes  
3 and means all sales made by any person.

4 "Original Package" means the individual packet, box or  
5 other container whatsoever used to contain and to convey  
6 cigarettes to the consumer.

7 "Distributor" means any and each of the following:

8 a. Any person engaged in the business of selling  
9 cigarettes in this State who brings or causes to be brought  
10 into this State from without this State any original  
11 packages of cigarettes, on which original packages there is  
12 no authorized evidence underneath a sealed transparent  
13 wrapper showing that the tax liability imposed by this Act  
14 has been paid or assumed by the out-of-State seller of such  
15 cigarettes, for sale in the course of such business.

16 b. Any person who makes, manufactures or fabricates  
17 cigarettes in this State for sale, except a person who  
18 makes, manufactures or fabricates cigarettes for sale to  
19 residents incarcerated in penal institutions or resident  
20 patients or a State-operated mental health facility.

21 c. Any person who makes, manufactures or fabricates  
22 cigarettes outside this State, which cigarettes are placed  
23 in original packages contained in sealed transparent  
24 wrappers, for delivery or shipment into this State, and who  
25 elects to qualify and is accepted by the Department as a  
26 distributor under Section 7 of this Act.

1 "Distributor" does not include any person who transfers  
2 cigarettes to a not-for-profit research institution that  
3 conducts tests concerning the health effects of tobacco  
4 products and who does not offer the cigarettes for resale.

5 "Distributor maintaining a place of business in this  
6 State", or any like term, means any distributor having or  
7 maintaining within this State, directly or by a subsidiary, an  
8 office, distribution house, sales house, warehouse or other  
9 place of business, or any agent operating within this State  
10 under the authority of the distributor or its subsidiary,  
11 irrespective of whether such place of business or agent is  
12 located here permanently or temporarily, or whether such  
13 distributor or subsidiary is licensed to transact business  
14 within this State.

15 "Business" means any trade, occupation, activity or  
16 enterprise engaged in or conducted in this State for the  
17 purpose of selling cigarettes.

18 "Prior Continuous Compliance Taxpayer" means any person  
19 who is licensed under this Act and who, having been a licensee  
20 for a continuous period of 5 years, is determined by the  
21 Department not to have been either delinquent or deficient in  
22 the payment of tax liability during that period or otherwise in  
23 violation of this Act. Also, any taxpayer who has, as verified  
24 by the Department, continuously complied with the condition of  
25 his bond or other security under provisions of this Act of a  
26 period of 5 consecutive years shall be considered to be a

1 "prior continuous compliance taxpayer". In calculating the  
2 consecutive period of time described herein for qualification  
3 as a "prior continuous compliance taxpayer", a consecutive  
4 period of time of qualifying compliance immediately prior to  
5 the effective date of this amendatory Act of 1987 shall be  
6 credited to any licensee who became licensed on or before the  
7 effective date of this amendatory Act of 1987.

8 "Secondary distributor" means any person engaged in the  
9 business of selling cigarettes who purchases stamped original  
10 packages of cigarettes from a licensed distributor under this  
11 Act or the Cigarette Tax Act, sells 75% or more of those  
12 cigarettes to retailers for resale, and maintains an  
13 established business where a substantial stock of cigarettes is  
14 available to retailers for resale.

15 "Secondary distributor maintaining a place of business in  
16 this State", or any like term, means any secondary distributor  
17 having or maintaining within this State, directly or by a  
18 subsidiary, an office, distribution house, sales house,  
19 warehouse, or other place of business, or any agent operating  
20 within this State under the authority of the secondary  
21 distributor or its subsidiary, irrespective of whether such  
22 place of business or agent is located here permanently or  
23 temporarily, or whether such secondary distributor or  
24 subsidiary is licensed to transact business within this State.

25 "Stamp" or "stamps" mean the indicia required to be affixed  
26 on a pack of cigarettes that evidence payment of the tax on

1 cigarettes under Section 2 of this Act.

2 "Related party" means any person that is associated with  
3 any other person because he or she:

4 (a) is an officer or director of a business; or

5 (b) is legally recognized as a partner in business.

6 (Source: P.A. 96-782, eff. 1-1-10; 96-1027, eff. 7-12-10;  
7 97-688, eff. 6-14-12.)

8 Section 15. The Tobacco Products Tax Act of 1995 is amended  
9 by changing Sections 10-5, 10-10, 10-15, 10-30, and 10-45 and  
10 by adding Sections 10-26, 10-27, 10-28, 10-29, and 10-36 as  
11 follows:

12 (35 ILCS 143/10-5)

13 Sec. 10-5. Definitions. For purposes of this Act:

14 "Business" means any trade, occupation, activity, or  
15 enterprise engaged in, at any location whatsoever, for the  
16 purpose of selling tobacco products.

17 "Cigarette" has the meaning ascribed to the term in Section  
18 1 of the Cigarette Tax Act.

19 "Contraband little cigar" means:

20 (1) packages of little cigars containing 20 or 25  
21 little cigars that do not bear a required tax stamp under  
22 this Act;

23 (2) packages of little cigars containing 20 or 25  
24 little cigars that bear a fraudulent, imitation, or



1       counterfeit tax stamp;

2           (3) packages of little cigars containing 20 or 25  
3       little cigars that are improperly tax stamped, including  
4       packages of little cigars that bear only a tax stamp of  
5       another state or taxing jurisdiction; or

6           (4) packages of little cigars containing other than 20  
7       or 25 little cigars in the possession of a distributor,  
8       retailer or wholesaler, unless the distributor, retailer,  
9       or wholesaler possesses, or produces within the time frame  
10       provided in Section 10-27 or 10-28 of this Act, an invoice  
11       from a stamping distributor, distributor, or wholesaler  
12       showing that the tax on the packages has been or will be  
13       paid.

14       "Correctional Industries program" means a program run by a  
15       State penal institution in which residents of the penal  
16       institution produce tobacco products for sale to persons  
17       incarcerated in penal institutions or resident patients of a  
18       State operated mental health facility.

19       "Department" means the Illinois Department of Revenue.

20       "Distributor" means any of the following:

21           (1) Any manufacturer or wholesaler in this State  
22       engaged in the business of selling tobacco products who  
23       sells, exchanges, or distributes tobacco products to  
24       retailers or consumers in this State.

25           (2) Any manufacturer or wholesaler engaged in the  
26       business of selling tobacco products from without this

1 State who sells, exchanges, distributes, ships, or  
2 transports tobacco products to retailers or consumers  
3 located in this State, so long as that manufacturer or  
4 wholesaler has or maintains within this State, directly or  
5 by subsidiary, an office, sales house, or other place of  
6 business, or any agent or other representative operating  
7 within this State under the authority of the person or  
8 subsidiary, irrespective of whether the place of business  
9 or agent or other representative is located here  
10 permanently or temporarily.

11 (3) Any retailer who receives tobacco products on which  
12 the tax has not been or will not be paid by another  
13 distributor.

14 "Distributor" does not include any person, wherever  
15 resident or located, who makes, manufactures, or fabricates  
16 tobacco products as part of a Correctional Industries program  
17 for sale to residents incarcerated in penal institutions or  
18 resident patients of a State operated mental health facility.

19 "Little cigar" means and includes any roll, made wholly or  
20 in part of tobacco, where such roll has an integrated cellulose  
21 acetate filter and weighs less than 4 pounds per thousand and  
22 the wrapper or cover of which is made in whole or in part of  
23 tobacco.

24 "Manufacturer" means any person, wherever resident or  
25 located, who manufactures and sells tobacco products, except a  
26 person who makes, manufactures, or fabricates tobacco products

1 as a part of a Correctional Industries program for sale to  
2 persons incarcerated in penal institutions or resident  
3 patients of a State operated mental health facility.

4 Beginning on January 1, 2013, "moist snuff" means any  
5 finely cut, ground, or powdered tobacco that is not intended to  
6 be smoked, but shall not include any finely cut, ground, or  
7 powdered tobacco that is intended to be placed in the nasal  
8 cavity.

9 "Person" means any natural individual, firm, partnership,  
10 association, joint stock company, joint venture, limited  
11 liability company, or public or private corporation, however  
12 formed, or a receiver, executor, administrator, trustee,  
13 conservator, or other representative appointed by order of any  
14 court.

15 "Place of business" means and includes any place where  
16 tobacco products are sold or where tobacco products are  
17 manufactured, stored, or kept for the purpose of sale or  
18 consumption, including any vessel, vehicle, airplane, train,  
19 or vending machine.

20 "Retailer" means any person in this State engaged in the  
21 business of selling tobacco products to consumers in this  
22 State, regardless of quantity or number of sales.

23 "Sale" means any transfer, exchange, or barter in any  
24 manner or by any means whatsoever for a consideration and  
25 includes all sales made by persons.

26 "Stamp" or "stamps" mean the indicia required to be affixed

1 on a package of little cigars that evidence payment of the tax  
2 on packages of little cigars containing 20 or 25 little cigars  
3 under Section 10-10 of this Act. These stamps shall be the same  
4 stamps used for cigarettes under the Cigarette Tax Act.

5 "Stamping distributor" means a distributor licensed under  
6 this Act and also licensed as a distributor under the Cigarette  
7 Tax Act or Cigarette Use Tax Act.

8 "Tobacco products" means any cigars, including little  
9 cigars; cheroots; stogies; periques; granulated, plug cut,  
10 crimp cut, ready rubbed, and other smoking tobacco; snuff  
11 (including moist snuff) or snuff flour; cavendish; plug and  
12 twist tobacco; fine-cut and other chewing tobaccos; shorts;  
13 refuse scraps, clippings, cuttings, and sweeping of tobacco;  
14 and other kinds and forms of tobacco, prepared in such manner  
15 as to be suitable for chewing or smoking in a pipe or  
16 otherwise, or both for chewing and smoking; but does not  
17 include cigarettes or tobacco purchased for the manufacture of  
18 cigarettes by cigarette distributors and manufacturers defined  
19 in the Cigarette Tax Act and persons who make, manufacture, or  
20 fabricate cigarettes as a part of a Correctional Industries  
21 program for sale to residents incarcerated in penal  
22 institutions or resident patients of a State operated mental  
23 health facility.

24 "Wholesale price" means the established list price for  
25 which a manufacturer sells tobacco products to a distributor,  
26 before the allowance of any discount, trade allowance, rebate,

1 or other reduction. In the absence of such an established list  
2 price, the manufacturer's invoice price at which the  
3 manufacturer sells the tobacco product to unaffiliated  
4 distributors, before any discounts, trade allowances, rebates,  
5 or other reductions, shall be presumed to be the wholesale  
6 price.

7 "Wholesaler" means any person, wherever resident or  
8 located, engaged in the business of selling tobacco products to  
9 others for the purpose of resale. "Wholesaler", when used in  
10 this Act, does not include a person licensed as a distributor  
11 under Section 10-20 of this Act unless expressly stated in this  
12 Act.

13 (Source: P.A. 97-688, eff. 6-14-12.)

14 (35 ILCS 143/10-10)

15 Sec. 10-10. Tax imposed.

16 (a) Except as otherwise provided in this Section with  
17 respect to little cigars, on ~~On~~ the first day of the third  
18 month after the month in which this Act becomes law, a tax is  
19 imposed on any person engaged in business as a distributor of  
20 tobacco products, as defined in Section 10-5, at the rate of  
21 (i) 18% of the wholesale price of tobacco products sold or  
22 otherwise disposed of to retailers or consumers located in this  
23 State prior to July 1, 2012 and (ii) 36% of the wholesale price  
24 of tobacco products sold or otherwise disposed of to retailers  
25 or consumers located in this State beginning on July 1, 2012;

1 except that, beginning on January 1, 2013, the tax on moist  
2 snuff shall be imposed at a rate of \$0.30 per ounce, and a  
3 proportionate tax at the like rate on all fractional parts of  
4 an ounce, sold or otherwise disposed of to retailers or  
5 consumers located in this State. The tax is in addition to all  
6 other occupation or privilege taxes imposed by the State of  
7 Illinois, by any political subdivision thereof, or by any  
8 municipal corporation. However, the tax is not imposed upon any  
9 activity in that business in interstate commerce or otherwise,  
10 to the extent to which that activity may not, under the  
11 Constitution and Statutes of the United States, be made the  
12 subject of taxation by this State, and except that, beginning  
13 July 1, 2013, the tax on little cigars shall be imposed at the  
14 same rate, and the proceeds shall be distributed in the same  
15 manner, as the tax imposed on cigarettes under the Cigarette  
16 Tax Act. The tax is also not imposed on sales made to the  
17 United States or any entity thereof.

18 (b) Notwithstanding subsection (a) of this Section,  
19 stamping distributors of packages of little cigars containing  
20 20 or 25 little cigars sold or otherwise disposed of in this  
21 State shall remit the tax by purchasing tax stamps from the  
22 Department and affixing them to packages of little cigars in  
23 the same manner as stamps are purchased and affixed to  
24 cigarettes under the Cigarette Tax Act, unless the stamping  
25 distributor sells or otherwise disposes of those packages of  
26 little cigars to another stamping distributor. Only persons

1 meeting the definition of "stamping distributor" contained in  
2 Section 10-5 of this Act may affix stamps to packages of little  
3 cigars containing 20 or 25 little cigars. Stamping distributors  
4 may not sell or dispose of little cigars at retail to consumers  
5 or users at locations where stamping distributors affix stamps  
6 to packages of little cigars containing 20 or 25 little cigars.

7 (c) The impact of the tax levied by this Act is imposed  
8 upon distributors engaged in the business of selling tobacco  
9 products to retailers or consumers in this State. Whenever a  
10 stamping distributor brings or causes to be brought into this  
11 State from without this State, or purchases from without or  
12 within this State, any packages of little cigars containing 20  
13 or 25 little cigars upon which there are no tax stamps affixed  
14 as required by this Act, for purposes of resale or disposal in  
15 this State to a person not a stamping distributor, then such  
16 stamping distributor shall pay the tax to the Department and  
17 add the amount of the tax to the price of such packages sold by  
18 such stamping distributor. Payment of the tax shall be  
19 evidenced by a stamp or stamps affixed to each package of  
20 little cigars containing 20 or 25 little cigars.

21 Stamping distributors paying the tax to the Department on  
22 packages of little cigars containing 20 or 25 little cigars  
23 sold to other distributors, wholesalers or retailers shall add  
24 the amount of the tax to the price of the packages of little  
25 cigars containing 20 or 25 little cigars sold by such stamping  
26 distributors.

1       (d) Beginning on January 1, 2013, the tax rate imposed per  
2 ounce of moist snuff may not exceed 15% of the tax imposed upon  
3 a package of 20 cigarettes pursuant to the Cigarette Tax Act.

4       (e) All moneys received by the Department under this Act  
5 from sales occurring prior to July 1, 2012 shall be paid into  
6 the Long-Term Care Provider Fund of the State Treasury. Of the  
7 moneys received by the Department from sales occurring on or  
8 after July 1, 2012, except for moneys received from the tax  
9 imposed on the sale of little cigars, 50% shall be paid into  
10 the Long-Term Care Provider Fund and 50% shall be paid into the  
11 Healthcare Provider Relief Fund. Beginning July 1, 2013, all  
12 moneys received by the Department under this Act from the tax  
13 imposed on little cigars shall be distributed as provided in  
14 subsection (a) of Section 2 of the Cigarette Tax Act.

15 (Source: P.A. 97-688, eff. 6-14-12.)

16 (35 ILCS 143/10-15)

17 Sec. 10-15. Exempt sales. Purchases of tobacco products  
18 other than little cigars by wholesalers who will not sell the  
19 product at retail are exempt from the tax imposed by this Act.  
20 Purchases of tobacco products other than little cigars by  
21 wholesalers and retailers for delivery of the product outside  
22 Illinois are exempt from the tax imposed by this Act. The  
23 wholesaler or retailer making the exempt sale of tobacco  
24 products other than little cigars shall document this exemption  
25 by obtaining a certification from the purchaser containing the



1 seller's name and address, the purchaser's name and address,  
2 the date of purchase, the purchaser's signature, the  
3 purchaser's tobacco products tax license number, if  
4 applicable, and a statement that the purchaser is purchasing  
5 for resale other than for sale to consumers or is purchasing  
6 for delivery outside of Illinois.

7 (Source: P.A. 89-21, eff. 6-6-95.)

8 (35 ILCS 143/10-26 new)

9 Sec. 10-26. Manufacturers; sale of little cigars.

10 Manufacturers that are not stamping distributors may not sell  
11 little cigars to consumers in this State or to distributors,  
12 wholesalers or retailers, unless the distributors, wholesalers  
13 or retailers are stamping distributors. Manufacturers that are  
14 not stamping distributors may sell little cigars only to  
15 stamping distributors. Manufacturers that are not stamping  
16 distributors are prohibited from delivering little cigars to  
17 locations where sales of little cigars to consumers or users  
18 take place.

19 (35 ILCS 143/10-27 new)

20 Sec. 10-27. Retailers; purchase and possession of little  
21 cigars.

22 (a) Retailers are prohibited from possessing unstamped  
23 packages of little cigars containing 20 or 25 little cigars at  
24 locations where retailers make sales of little cigars to

1 consumers or users. Retailers that are also stamping  
2 distributors are prohibited from possessing unstamped little  
3 cigars at locations where those retailers make sales of  
4 packages of little cigars containing 20 or 25 little cigars to  
5 consumers or users. Retailers that are not stamping  
6 distributors shall purchase stamped packages of little cigars  
7 containing 20 or 25 little cigars for resale only from stamping  
8 distributors, distributors, or wholesalers. Retailers who are  
9 not stamping distributors may not purchase or possess unstamped  
10 packages of little cigars containing 20 or 25 little cigars. A  
11 retailer must be a stamping distributor to make tax exempt  
12 sales of packages of little cigars containing 20 or 25 little  
13 cigars for use outside of this State. A retailer who is a  
14 stamping distributor making sales of stamped packages of little  
15 cigars for use outside of this State may file a claim for  
16 credit for such sales with the Department on forms and in the  
17 manner provided by the Department.

18 (b) For purchases of packages of little cigars containing  
19 other than 20 or 25 little cigars, retailers who are not  
20 stamping distributors may not purchase or possess such packages  
21 of little cigars, unless the retailer receives an invoice from  
22 a stamping distributor, distributor, or wholesaler stating the  
23 tax on the packages has been or will be paid. Retailers shall  
24 retain such invoices for inspection by the Department. If a  
25 retailer maintaining multiple retail locations notifies the  
26 Department in writing that it maintains its invoices at a

1 centralized business location, the Department shall have the  
2 authority to inspect invoices at the centralized business  
3 location at all times during the usual business hours of the  
4 day and the Department may grant the retailer 3 business days  
5 to produce the invoices at the retail location at which the  
6 request was made. A retailer must be a stamping distributor to  
7 make tax exempt sales of packages of little cigars containing  
8 other than 20 or 25 little cigars for use outside of this  
9 State. A retailer who is a stamping distributor making sales of  
10 packages of little cigars containing other than 20 or 25 little  
11 cigars for use outside of this State on which the tax has been  
12 or will be paid by another stamping distributor or was paid by  
13 the retailer may file a claim for credit for such sales with  
14 the Department on forms and in the manner provided by the  
15 Department.

16 (c) Notwithstanding anything to the contrary in this Act, a  
17 retailer unknowingly possessing contraband little cigars  
18 obtained from a stamping distributor, distributor, or  
19 wholesaler or other person engaged in the business of selling  
20 tobacco products or knowingly possessing contraband little  
21 cigars obtained from a stamping distributor is not subject to  
22 penalties for such purchase or possession if the retailer,  
23 within 48 hours after discovering that the little cigars are  
24 contraband little cigars, excluding Saturdays, Sundays, and  
25 holidays: (i) notifies the Department and the person from whom  
26 the little cigars were obtained, orally and in writing, that he

1 or she possesses contraband little cigars; (ii) places the  
2 contraband little cigars in one or more containers and seals  
3 those containers; and (iii) places on the containers the  
4 following or similar language: "Contraband Little Cigars. Not  
5 For Sale." All contraband little cigars in the possession of a  
6 retailer remain subject to forfeiture under the provisions of  
7 this Act.

8 (35 ILCS 143/10-28 new)

9 Sec. 10-28. Wholesalers.

10 (a) Wholesalers are prohibited from possessing unstamped  
11 packages of little cigars containing 20 or 25 little cigars  
12 unless the wholesalers are stamping distributors. A wholesaler  
13 must be a stamping distributor to make tax exempt sales of  
14 packages of little cigars containing 20 or 25 little cigars for  
15 use outside of this State. A wholesaler who is a stamping  
16 distributor making sales of stamped packages of little cigars  
17 for use outside of this State may file a claim for credit for  
18 such sales with the Department on forms and in the manner  
19 provided by the Department.

20 (b) For purchases of packages of little cigars containing  
21 other than 20 or 25 little cigars, wholesalers who are not  
22 stamping distributors may not purchase or possess such packages  
23 of little cigars, unless the wholesalers receive an invoice  
24 from a stamping distributor, distributor, or wholesaler  
25 stating the tax on the packages has been or will be paid.

1 Wholesalers shall retain such invoices for inspection by the  
2 Department. Every sales invoice for packages of little cigars  
3 containing other than 20 or 25 little cigars issued by a  
4 wholesaler to a person who is not a stamping distributor shall  
5 state that the tax imposed by the Act has been or will be paid.  
6 If a wholesaler maintaining multiple wholesale locations  
7 notifies the Department in writing that it maintains its  
8 invoices at a centralized business location, the Department  
9 shall have the authority to inspect invoices at the centralized  
10 business location at all times during the usual business hours  
11 of the day and the Department may grant the wholesaler 3  
12 business days to produce the invoices at the wholesale location  
13 at which the request was made. A wholesaler must be a stamping  
14 distributor to make tax exempt sales of packages of little  
15 cigars containing other than 20 or 25 little cigars for use  
16 outside of this State. A wholesaler who is a stamping  
17 distributor making sales of packages of little cigars  
18 containing other than 20 or 25 little cigars for use outside of  
19 this State on which the tax has been or will be paid by another  
20 stamping distributor or was paid by the wholesaler may file a  
21 claim for credit for such sales with the Department on forms  
22 and in the manner provided by the Department.

23 (35 ILCS 143/10-29 new)

24 Sec. 10-29. Invoices; packages of little cigars.

25 (a) Every sales invoice for packages of little cigars

1 containing other than 20 or 25 little cigars issued by a  
2 stamping distributor to a person who is not a stamping  
3 distributor shall contain both the stamping distributor's  
4 Tobacco Products License number and Cigarette Tax  
5 Distributor's License number or Cigarette Use Tax  
6 Distributor's License number and state that the tax imposed by  
7 the Act has been or will be paid or that the sale is exempt in  
8 whole or in part and the exemption which is claimed.

9 (b) Any stamping distributor, distributor or wholesaler  
10 who knowingly falsely states on the invoice that the tax  
11 imposed by this Act has been or will be paid, or any officer or  
12 employee of a corporation, member or employee of a partnership,  
13 or manager, member or employee of a limited liability company  
14 that is a stamping distributor, distributor, or wholesaler,  
15 who, as such officer, employee, manager, or member, knowingly  
16 causes to be issued an invoice on behalf of such entity, that  
17 such person knows falsely states that the tax imposed by the  
18 Act has been or will be paid, is guilty of a Class 4 felony.

19 (c) Whenever any sales invoice issued by a stamping  
20 distributor, distributor or wholesaler for the sale of packages  
21 of little cigars containing other than 20 or 25 little cigars  
22 does not comply with subsection (b) of Section 10-28 or  
23 subsection (a) of this Section by indicating that the tax has  
24 been or will be paid or that the sale is exempt in whole or in  
25 part, a prima facie presumption shall arise that the tax  
26 imposed by Section 10-10 of this Act has not been paid on the

1 little cigars listed on the sales invoice. A person who is not  
2 a stamping distributor and is unable to rebut this presumption  
3 is in violation of this Act and is subject to the penalties  
4 provided in this Act.

5 (35 ILCS 143/10-30)

6 Sec. 10-30. Returns.

7 (a) Every distributor shall, on or before the 15th day of  
8 each month, file a return with the Department covering the  
9 preceding calendar month. The return shall disclose the  
10 wholesale price for all tobacco products other than moist snuff  
11 and the quantity in ounces of moist snuff sold or otherwise  
12 disposed of and other information that the Department may  
13 reasonably require. The return shall be filed upon a form  
14 prescribed and furnished by the Department.

15 (b) In addition to the information required under  
16 subsection (a), on or before the 15th day of each month,  
17 covering the preceding calendar month, each stamping  
18 distributor shall, on forms prescribed and furnished by the  
19 Department, report the quantity of little cigars sold or  
20 otherwise disposed of, including the number of packages of  
21 little cigars sold or disposed of during the month containing  
22 20 or 25 little cigars.

23 (c) At the time when any return of any distributor is due  
24 to be filed with the Department, the distributor shall also  
25 remit to the Department the tax liability that the distributor

1 has incurred for transactions occurring in the preceding  
2 calendar month.

3 (d) The Department may adopt rules to require the  
4 electronic filing of any return or document required to be  
5 filed under this Act. Those rules may provide for exceptions  
6 from the filing requirement set forth in this paragraph for  
7 persons who demonstrate that they do not have access to the  
8 Internet and petition the Department to waive the electronic  
9 filing requirement.

10 (Source: P.A. 97-688, eff. 6-14-12.)

11 (35 ILCS 143/10-36 new)

12 Sec. 10-36. Recordkeeping by retailers. Every retailer  
13 shall keep complete and accurate records of tobacco products  
14 held and purchased, and tobacco products sold or otherwise  
15 disposed of, and shall preserve and keep all invoices, bills of  
16 lading, sales records, and copies of bills of sale. Books,  
17 records, papers, and documents that are required by this Act to  
18 be kept shall, at all times during the usual business hours of  
19 the day, be subject to inspection by the Department or its duly  
20 authorized agents and employees. The books, records, papers,  
21 and documents for any period with respect to which the  
22 Department is authorized to issue a notice of tax liability  
23 shall be preserved until the expiration of that period.

24 (35 ILCS 143/10-45)



1           Sec. 10-45. Incorporation by reference. All of the  
2 provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h,  
3 5i, 5j, 6, 6a, 6b, 6c, 8, 9, 10, 11, 11a, and 12 of the  
4 Retailers' Occupation Tax Act, and all applicable provisions of  
5 the Uniform Penalty and Interest Act that are not inconsistent  
6 with this Act, apply to distributors of tobacco products to the  
7 same extent as if those provisions were included in this Act.  
8 References in the incorporated Sections of the Retailers'  
9 Occupation Tax Act to retailers, to sellers, or to persons  
10 engaged in the business of selling tangible personal property  
11 mean distributors when used in this Act. References in the  
12 incorporated Sections to sales of tangible personal property  
13 mean sales of tobacco products when used in this Act.

14           All of the provisions of Sections 7, 8, 8a, 16, 18a, 18b,  
15 18c, 22, 23, 24, 26, 27, and 28a of the Cigarette Tax Act which  
16 are not inconsistent with this Act shall apply, as far as  
17 practicable, to the subject matter of this Act to the same  
18 extent as if those provisions were included in this Act.  
19 References in the incorporated Sections to sales of cigarettes  
20 mean sales of little cigars in packages of 20 or 25 little  
21 cigars.

22           (Source: P.A. 89-21, eff. 6-6-95.)

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