



Sen. Toi W. Hutchinson

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09800SB0338sam002

LRB098 04613 HLH 44846 a

1 AMENDMENT TO SENATE BILL 338

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 338 by replacing  
3 everything after the enacting clause with the following:

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

1 or any other substance or material except tobacco.

2 "Cigarette", beginning on and after July 1, 2012, and  
3 through June 30, 2013, means any roll for smoking made wholly  
4 or in part of tobacco irrespective of size or shape and whether  
5 or not such tobacco is flavored, adulterated, or mixed with any  
6 other ingredient, and the wrapper or cover of which is made of  
7 paper.

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

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

14 (b) the product is available for sale in cartons of ten  
15 packs;

16 (c) the product is sold in soft packs, hard packs,  
17 flip-top boxes, clam shells, or other cigarette-type  
18 boxes;

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

21 (e) the product has a cellulose acetate or other  
22 integrated filter;

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

25 (g) other evidence that the product fits within the  
26 definition of cigarette.

1 "Contraband cigarettes" means:

2 (a) cigarettes that do not bear a required tax stamp  
3 under this Act;

4 (b) cigarettes for which any required federal taxes  
5 have not been paid;

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

7 (d) cigarettes that are manufactured, fabricated,  
8 assembled, processed, packaged, or labeled by any person  
9 other than (i) the owner of the trademark rights in the  
10 cigarette brand or (ii) a person that is directly or  
11 indirectly authorized by such owner;

12 (e) cigarettes imported into the United States, or  
13 otherwise distributed, in violation of the federal  
14 Imported Cigarette Compliance Act of 2000 (Title IV of  
15 Public Law 106-476);

16 (f) cigarettes that have false manufacturing labels;

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

19 (h) cigarettes that are improperly tax stamped,  
20 including cigarettes that bear a tax stamp of another state  
21 or taxing jurisdiction; or

22 (i) cigarettes made or fabricated by a person holding a  
23 cigarette machine operator license under Section 1-20 of  
24 the Cigarette Machine Operators' Occupation Tax Act in the  
25 possession of manufacturers, distributors, secondary  
26 distributors, manufacturer representatives or other

1           retailers for the purpose of resale, regardless of whether  
2           the tax has been paid on such cigarettes.

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

5           "Person" means any natural individual, firm, partnership,  
6           association, joint stock company, joint adventure, public or  
7           private corporation, however formed, limited liability  
8           company, or a receiver, executor, administrator, trustee,  
9           guardian or other representative appointed by order of any  
10          court.

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

1 "Department" means the Department of Revenue.

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

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

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

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

18 (2) Any person who makes, manufactures or fabricates  
19 cigarettes in this State for sale in this State, except a  
20 person who makes, manufactures or fabricates cigarettes as  
21 a part of a correctional industries program for sale to  
22 residents incarcerated in penal institutions or resident  
23 patients of a State-operated mental health facility.

24 (3) Any person who makes, manufactures or fabricates  
25 cigarettes outside this State, which cigarettes are placed  
26 in original packages contained in sealed transparent

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

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

9           "Manufacturer representative" means a director, officer,  
10          or employee of a manufacturer who has obtained authority from  
11          the Department under Section 4f to maintain representatives in  
12          Illinois that provide or sell original packages of cigarettes  
13          made, manufactured, or fabricated by the manufacturer to  
14          retailers in compliance with Section 4f of this Act to promote  
15          cigarettes made, manufactured, or fabricated by the  
16          manufacturer.

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

20          "Retailer" means any person who engages in the making of  
21          transfers of the ownership of, or title to, cigarettes to a  
22          purchaser for use or consumption and not for resale in any  
23          form, for a valuable consideration. "Retailer" does not include  
24          a person:

25                 (1) who transfers to residents incarcerated in penal  
26                 institutions or resident patients of a State-operated

1           mental health facility ownership of cigarettes made,  
2           manufactured, or fabricated as part of a correctional  
3           industries program; or

4           (2) who transfers cigarettes to a not-for-profit  
5           research institution that conducts tests concerning the  
6           health effects of tobacco products and who does not offer  
7           the cigarettes for resale.

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

17          "Secondary distributor" means any person engaged in the  
18          business of selling cigarettes who purchases stamped original  
19          packages of cigarettes from a licensed distributor under this  
20          Act or the Cigarette Use Tax Act, sells 75% or more of those  
21          cigarettes to retailers for resale, and maintains an  
22          established business where a substantial stock of cigarettes is  
23          available to retailers for resale.

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

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

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

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

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

7 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

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

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



1 1985, \$9,000,000 of the moneys received by the Department of  
2 Revenue pursuant to this Act shall be paid each month into the  
3 Common School Fund. On and after the effective date of this  
4 amendatory Act of 1989, in addition to any other tax imposed by  
5 this Act, a tax is imposed upon any person engaged in business  
6 as a retailer of cigarettes at the rate of 5 mills per  
7 cigarette sold or otherwise disposed of in the course of such  
8 business in this State. On and after the effective date of this  
9 amendatory Act of 1993, in addition to any other tax imposed by  
10 this Act, a tax is imposed upon any person engaged in business  
11 as a retailer of cigarettes at the rate of 7 mills per  
12 cigarette sold or otherwise disposed of in the course of such  
13 business in this State. On and after December 15, 1997, in  
14 addition to any other tax imposed by this Act, a tax is imposed  
15 upon any person engaged in business as a retailer of cigarettes  
16 at the rate of 7 mills per cigarette sold or otherwise disposed  
17 of in the course of such business of this State. All of the  
18 moneys received by the Department of Revenue pursuant to this  
19 Act and the Cigarette Use Tax Act from the additional taxes  
20 imposed by this amendatory Act of 1997, shall be paid each  
21 month into the Common School Fund. On and after July 1, 2002,  
22 in addition to any other tax imposed by this Act, a tax is  
23 imposed upon any person engaged in business as a retailer of  
24 cigarettes at the rate of 20.0 mills per cigarette sold or  
25 otherwise disposed of in the course of such business in this  
26 State. Beginning on June 24, 2012, in addition to any other tax

1 imposed by this Act, a tax is imposed upon any person engaged  
2 in business as a retailer of cigarettes at the rate of 50 mills  
3 per cigarette sold or otherwise disposed of in the course of  
4 such business in this State. All moneys received by the  
5 Department of Revenue under this Act and the Cigarette Use Tax  
6 Act from the additional taxes imposed by this amendatory Act of  
7 the 97th General Assembly shall be paid each month into the  
8 Healthcare Provider Relief Fund. The payment of such taxes  
9 shall be evidenced by a stamp affixed to each original package  
10 of cigarettes, or an authorized substitute for such stamp  
11 imprinted on each original package of such cigarettes  
12 underneath the sealed transparent outside wrapper of such  
13 original package, as hereinafter provided. However, such taxes  
14 are not imposed upon any activity in such business in  
15 interstate commerce or otherwise, which activity may not under  
16 the Constitution and statutes of the United States be made the  
17 subject of taxation by this State.

18 Beginning on the effective date of this amendatory Act of  
19 the 92nd General Assembly and through June 30, 2006, all of the  
20 moneys received by the Department of Revenue pursuant to this  
21 Act and the Cigarette Use Tax Act, other than the moneys that  
22 are dedicated to the Common School Fund, shall be distributed  
23 each month as follows: first, there shall be paid into the  
24 General Revenue Fund an amount which, when added to the amount  
25 paid into the Common School Fund for that month, equals  
26 \$33,300,000, except that in the month of August of 2004, this

1 amount shall equal \$83,300,000; then, from the moneys  
2 remaining, if any amounts required to be paid into the General  
3 Revenue Fund in previous months remain unpaid, those amounts  
4 shall be paid into the General Revenue Fund; then, beginning on  
5 April 1, 2003, from the moneys remaining, \$5,000,000 per month  
6 shall be paid into the School Infrastructure Fund; then, if any  
7 amounts required to be paid into the School Infrastructure Fund  
8 in previous months remain unpaid, those amounts shall be paid  
9 into the School Infrastructure Fund; then the moneys remaining,  
10 if any, shall be paid into the Long-Term Care Provider Fund. To  
11 the extent that more than \$25,000,000 has been paid into the  
12 General Revenue Fund and Common School Fund per month for the  
13 period of July 1, 1993 through the effective date of this  
14 amendatory Act of 1994 from combined receipts of the Cigarette  
15 Tax Act and the Cigarette Use Tax Act, notwithstanding the  
16 distribution provided in this Section, the Department of  
17 Revenue is hereby directed to adjust the distribution provided  
18 in this Section to increase the next monthly payments to the  
19 Long Term Care Provider Fund by the amount paid to the General  
20 Revenue Fund and Common School Fund in excess of \$25,000,000  
21 per month and to decrease the next monthly payments to the  
22 General Revenue Fund and Common School Fund by that same excess  
23 amount.

24 Beginning on July 1, 2006, all of the moneys received by  
25 the Department of Revenue pursuant to this Act and the  
26 Cigarette Use Tax Act, other than the moneys that are dedicated

1 to the Common School Fund and, beginning on the effective date  
2 of this amendatory Act of the 97th General Assembly, other than  
3 the moneys from the additional taxes imposed by this amendatory  
4 Act of the 97th General Assembly that must be paid each month  
5 into the Healthcare Provider Relief Fund, shall be distributed  
6 each month as follows: first, there shall be paid into the  
7 General Revenue Fund an amount that, when added to the amount  
8 paid into the Common School Fund for that month, equals  
9 \$29,200,000; then, from the moneys remaining, if any amounts  
10 required to be paid into the General Revenue Fund in previous  
11 months remain unpaid, those amounts shall be paid into the  
12 General Revenue Fund; then from the moneys remaining,  
13 \$5,000,000 per month shall be paid into the School  
14 Infrastructure Fund; then, if any amounts required to be paid  
15 into the School Infrastructure Fund in previous months remain  
16 unpaid, those amounts shall be paid into the School  
17 Infrastructure Fund; then the moneys remaining, if any, shall  
18 be paid into the Long-Term Care Provider Fund.

19 Moneys collected from the tax imposed on little cigars  
20 under Section 10-10 of the Tobacco Products Tax Act of 1995  
21 shall be included with the moneys collected under the Cigarette  
22 Tax Act and the Cigarette Use Tax Act when making distributions  
23 to the Common School Fund, the Healthcare Provider Relief Fund,  
24 the General Revenue Fund, the School Infrastructure Fund, and  
25 the Long-Term Care Provider Fund under this Section.

26 When any tax imposed herein terminates or has terminated,

1 distributors who have bought stamps while such tax was in  
2 effect and who therefore paid such tax, but who can show, to  
3 the Department's satisfaction, that they sold the cigarettes to  
4 which they affixed such stamps after such tax had terminated  
5 and did not recover the tax or its equivalent from purchasers,  
6 shall be allowed by the Department to take credit for such  
7 absorbed tax against subsequent tax stamp purchases from the  
8 Department by such distributor.

9 The impact of the tax levied by this Act is imposed upon  
10 the retailer and shall be prepaid or pre-collected by the  
11 distributor for the purpose of convenience and facility only,  
12 and the amount of the tax shall be added to the price of the  
13 cigarettes sold by such distributor. Collection of the tax  
14 shall be evidenced by a stamp or stamps affixed to each  
15 original package of cigarettes, as hereinafter provided.

16 Each distributor shall collect the tax from the retailer at  
17 or before the time of the sale, shall affix the stamps as  
18 hereinafter required, and shall remit the tax collected from  
19 retailers to the Department, as hereinafter provided. Any  
20 distributor who fails to properly collect and pay the tax  
21 imposed by this Act shall be liable for the tax. Any  
22 distributor having cigarettes to which stamps have been affixed  
23 in his possession for sale on the effective date of this  
24 amendatory Act of 1989 shall not be required to pay the  
25 additional tax imposed by this amendatory Act of 1989 on such  
26 stamped cigarettes. Any distributor having cigarettes to which

1 stamps have been affixed in his or her possession for sale at  
2 12:01 a.m. on the effective date of this amendatory Act of  
3 1993, is required to pay the additional tax imposed by this  
4 amendatory Act of 1993 on such stamped cigarettes. This  
5 payment, less the discount provided in subsection (b), shall be  
6 due when the distributor first makes a purchase of cigarette  
7 tax stamps after the effective date of this amendatory Act of  
8 1993, or on the first due date of a return under this Act after  
9 the effective date of this amendatory Act of 1993, whichever  
10 occurs first. Any distributor having cigarettes to which stamps  
11 have been affixed in his possession for sale on December 15,  
12 1997 shall not be required to pay the additional tax imposed by  
13 this amendatory Act of 1997 on such stamped cigarettes.

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

19 Any retailer having cigarettes in his or her possession on  
20 June 24, 2012 to which tax stamps have been affixed is not  
21 required to pay the additional tax that begins on June 24, 2012  
22 imposed by this amendatory Act of the 97th General Assembly on  
23 those stamped cigarettes. Any distributor having cigarettes in  
24 his or her possession on June 24, 2012 to which tax stamps have  
25 been affixed, and any distributor having stamps in his or her  
26 possession on June 24, 2012 that have not been affixed to

1 packages of cigarettes before June 24, 2012, is required to pay  
2 the additional tax that begins on June 24, 2012 imposed by this  
3 amendatory Act of the 97th General Assembly to the extent the  
4 calendar year 2012 average monthly volume of cigarette stamps  
5 in the distributor's possession exceeds the average monthly  
6 volume of cigarette stamps purchased by the distributor in  
7 calendar year 2011. This payment, less the discount provided in  
8 subsection (b), is due when the distributor first makes a  
9 purchase of cigarette stamps on or after June 24, 2012 or on  
10 the first due date of a return under this Act occurring on or  
11 after June 24, 2012, whichever occurs first. Those distributors  
12 may elect to pay the additional tax on packages of cigarettes  
13 to which stamps have been affixed and on any stamps in the  
14 distributor's possession that have not been affixed to packages  
15 of cigarettes over a period not to exceed 12 months from the  
16 due date of the additional tax by notifying the Department in  
17 writing. The first payment for distributors making such  
18 election is due when the distributor first makes a purchase of  
19 cigarette tax stamps on or after June 24, 2012 or on the first  
20 due date of a return under this Act occurring on or after June  
21 24, 2012, whichever occurs first. Distributors making such an  
22 election are not entitled to take the discount provided in  
23 subsection (b) on such payments.

24 Distributors making sales of cigarettes to secondary  
25 distributors shall add the amount of the tax to the price of  
26 the cigarettes sold by the distributors. Secondary

1 distributors making sales of cigarettes to retailers shall  
2 include the amount of the tax in the price of the cigarettes  
3 sold to retailers. The amount of tax shall not be less than the  
4 amount of taxes imposed by the State and all local  
5 jurisdictions. The amount of local taxes shall be calculated  
6 based on the location of the retailer's place of business shown  
7 on the retailer's certificate of registration or  
8 sub-registration issued to the retailer pursuant to Section 2a  
9 of the Retailers' Occupation Tax Act. The original packages of  
10 cigarettes sold to the retailer shall bear all the required  
11 stamps, or other indicia, for the taxes included in the price  
12 of cigarettes.

13 The amount of the Cigarette Tax imposed by this Act shall  
14 be separately stated, apart from the price of the goods, by  
15 distributors, manufacturer representatives, secondary  
16 distributors, and retailers, in all bills and sales invoices.

17 (b) The distributor shall be required to collect the taxes  
18 provided under paragraph (a) hereof, and, to cover the costs of  
19 such collection, shall be allowed a discount during any year  
20 commencing July 1st and ending the following June 30th in  
21 accordance with the schedule set out hereinbelow, which  
22 discount shall be allowed at the time of purchase of the stamps  
23 when purchase is required by this Act, or at the time when the  
24 tax is remitted to the Department without the purchase of  
25 stamps from the Department when that method of paying the tax  
26 is required or authorized by this Act. Prior to December 1,



1 1985, a discount equal to 1 2/3% of the amount of the tax up to  
2 and including the first \$700,000 paid hereunder by such  
3 distributor to the Department during any such year; 1 1/3% of  
4 the next \$700,000 of tax or any part thereof, paid hereunder by  
5 such distributor to the Department during any such year; 1% of  
6 the next \$700,000 of tax, or any part thereof, paid hereunder  
7 by such distributor to the Department during any such year, and  
8 2/3 of 1% of the amount of any additional tax paid hereunder by  
9 such distributor to the Department during any such year shall  
10 apply. On and after December 1, 1985, a discount equal to 1.75%  
11 of the amount of the tax payable under this Act up to and  
12 including the first \$3,000,000 paid hereunder by such  
13 distributor to the Department during any such year and 1.5% of  
14 the amount of any additional tax paid hereunder by such  
15 distributor to the Department during any such year shall apply.

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

20 (c) The taxes herein imposed are in addition to all other  
21 occupation or privilege taxes imposed by the State of Illinois,  
22 or by any political subdivision thereof, or by any municipal  
23 corporation.

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

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

3 (35 ILCS 135/1) (from Ch. 120, par. 453.31)

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

6 "Use" means the exercise by any person of any right or  
7 power over cigarettes incident to the ownership or possession  
8 thereof, other than the making of a sale thereof in the course  
9 of engaging in a business of selling cigarettes and shall  
10 include the keeping or retention of cigarettes for use, except  
11 that "use" does not include the use of cigarettes by a  
12 not-for-profit research institution conducting tests  
13 concerning the health effects of tobacco products, provided the  
14 cigarettes are not offered for resale.

15 "Brand Style" means a variety of cigarettes distinguished  
16 by the tobacco used, tar and nicotine content, flavoring used,  
17 size of the cigarette, filtration on the cigarette or  
18 packaging.

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

25 "Cigarette", beginning on and after July 1, 2012, and

1 through June 30, 2013, means any roll for smoking made wholly  
2 or in part of tobacco irrespective of size or shape and whether  
3 or not such tobacco is flavored, adulterated or mixed with any  
4 other ingredient, and the wrapper or cover of which is made of  
5 paper.

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

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

12 (b) the product is available for sale in cartons of ten  
13 packs;

14 (c) the product is sold in soft packs, hard packs,  
15 flip-top boxes, clam shells, or other cigarette-type  
16 boxes;

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

19 (e) the product has a cellulose acetate or other  
20 integrated filter;

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

23 (g) other evidence that the product fits within the  
24 definition of cigarette.

25 "Contraband cigarettes" means:

26 (a) cigarettes that do not bear a required tax stamp

1 under this Act;

2 (b) cigarettes for which any required federal taxes  
3 have not been paid;

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

5 (d) cigarettes that are manufactured, fabricated,  
6 assembled, processed, packaged, or labeled by any person  
7 other than (i) the owner of the trademark rights in the  
8 cigarette brand or (ii) a person that is directly or  
9 indirectly authorized by such owner;

10 (e) cigarettes imported into the United States, or  
11 otherwise distributed, in violation of the federal  
12 Imported Cigarette Compliance Act of 2000 (Title IV of  
13 Public Law 106-476);

14 (f) cigarettes that have false manufacturing labels;

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

17 (h) cigarettes that are improperly tax stamped,  
18 including cigarettes that bear a tax stamp of another state  
19 or taxing jurisdiction; or

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

1 "Person" means any natural individual, firm, partnership,  
2 association, joint stock company, joint adventure, public or  
3 private corporation, however formed, limited liability  
4 company, or a receiver, executor, administrator, trustee,  
5 guardian or other representative appointed by order of any  
6 court.

7 "Department" means the Department of Revenue.

8 "Sale" means any transfer, exchange or barter in any manner  
9 or by any means whatsoever for a consideration, and includes  
10 and means all sales made by any person.

11 "Original Package" means the individual packet, box or  
12 other container whatsoever used to contain and to convey  
13 cigarettes to the consumer.

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

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

23 b. Any person who makes, manufactures or fabricates  
24 cigarettes in this State for sale, except a person who  
25 makes, manufactures or fabricates cigarettes for sale to  
26 residents incarcerated in penal institutions or resident

1 patients or a State-operated mental health facility.

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

8 "Distributor" does not include any person who transfers  
9 cigarettes to a not-for-profit research institution that  
10 conducts tests concerning the health effects of tobacco  
11 products and who does not offer the cigarettes for resale.

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

22 "Business" means any trade, occupation, activity or  
23 enterprise engaged in or conducted in this State for the  
24 purpose of selling cigarettes.

25 "Prior Continuous Compliance Taxpayer" means any person  
26 who is licensed under this Act and who, having been a licensee

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

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

22 "Secondary distributor maintaining a place of business in  
23 this State", or any like term, means any secondary distributor  
24 having or maintaining within this State, directly or by a  
25 subsidiary, an office, distribution house, sales house,  
26 warehouse, or other place of business, or any agent operating

1 within this State under the authority of the secondary  
2 distributor or its subsidiary, irrespective of whether such  
3 place of business or agent is located here permanently or  
4 temporarily, or whether such secondary distributor or  
5 subsidiary is licensed to transact business within this State.

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

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

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

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

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

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

19 (35 ILCS 143/10-5)

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

21 "Business" means any trade, occupation, activity, or  
22 enterprise engaged in, at any location whatsoever, for the  
23 purpose of selling tobacco products.

24 "Cigarette" has the meaning ascribed to the term in Section



1 of the Cigarette Tax Act.

2 "Contraband little cigar" means:

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

6 (2) packages of little cigars containing 20 or 25  
7 little cigars that bear a fraudulent, imitation, or  
8 counterfeit tax stamp;

9 (3) packages of little cigars containing 20 or 25  
10 little cigars that are improperly tax stamped, including  
11 packages of little cigars that bear only a tax stamp of  
12 another state or taxing jurisdiction; or

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

21 "Correctional Industries program" means a program run by a  
22 State penal institution in which residents of the penal  
23 institution produce tobacco products for sale to persons  
24 incarcerated in penal institutions or resident patients of a  
25 State operated mental health facility.

26 "Department" means the Illinois Department of Revenue.

1 "Distributor" means any of the following:

2 (1) Any manufacturer or wholesaler in this State  
3 engaged in the business of selling tobacco products who  
4 sells, exchanges, or distributes tobacco products to  
5 retailers or consumers in this State.

6 (2) Any manufacturer or wholesaler engaged in the  
7 business of selling tobacco products from without this  
8 State who sells, exchanges, distributes, ships, or  
9 transports tobacco products to retailers or consumers  
10 located in this State, so long as that manufacturer or  
11 wholesaler has or maintains within this State, directly or  
12 by subsidiary, an office, sales house, or other place of  
13 business, or any agent or other representative operating  
14 within this State under the authority of the person or  
15 subsidiary, irrespective of whether the place of business  
16 or agent or other representative is located here  
17 permanently or temporarily.

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

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

26 "Little cigar" means and includes any roll, made wholly or

1 in part of tobacco, where such roll has an integrated cellulose  
2 acetate filter and weighs less than 4 pounds per thousand and  
3 the wrapper or cover of which is made in whole or in part of  
4 tobacco.

5 "Manufacturer" means any person, wherever resident or  
6 located, who manufactures and sells tobacco products, except a  
7 person who makes, manufactures, or fabricates tobacco products  
8 as a part of a Correctional Industries program for sale to  
9 persons incarcerated in penal institutions or resident  
10 patients of a State operated mental health facility.

11 Beginning on January 1, 2013, "moist snuff" means any  
12 finely cut, ground, or powdered tobacco that is not intended to  
13 be smoked, but shall not include any finely cut, ground, or  
14 powdered tobacco that is intended to be placed in the nasal  
15 cavity.

16 "Person" means any natural individual, firm, partnership,  
17 association, joint stock company, joint venture, limited  
18 liability company, or public or private corporation, however  
19 formed, or a receiver, executor, administrator, trustee,  
20 conservator, or other representative appointed by order of any  
21 court.

22 "Place of business" means and includes any place where  
23 tobacco products are sold or where tobacco products are  
24 manufactured, stored, or kept for the purpose of sale or  
25 consumption, including any vessel, vehicle, airplane, train,  
26 or vending machine.

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

4 "Sale" means any transfer, exchange, or barter in any  
5 manner or by any means whatsoever for a consideration and  
6 includes all sales made by persons.

7 "Stamp" or "stamps" mean the indicia required to be affixed  
8 on a package of little cigars that evidence payment of the tax  
9 on packages of little cigars containing 20 or 25 little cigars  
10 under Section 10-10 of this Act. These stamps shall be the same  
11 stamps used for cigarettes under the Cigarette Tax Act.

12 "Stamping distributor" means a distributor licensed under  
13 this Act and also licensed as a distributor under the Cigarette  
14 Tax Act or Cigarette Use Tax Act.

15 "Tobacco products" means any cigars, including little  
16 cigars; cheroots; stogies; periques; granulated, plug cut,  
17 crimp cut, ready rubbed, and other smoking tobacco; snuff  
18 (including moist snuff) or snuff flour; cavendish; plug and  
19 twist tobacco; fine-cut and other chewing tobaccos; shorts;  
20 refuse scraps, clippings, cuttings, and sweeping of tobacco;  
21 and other kinds and forms of tobacco, prepared in such manner  
22 as to be suitable for chewing or smoking in a pipe or  
23 otherwise, or both for chewing and smoking; but does not  
24 include cigarettes or tobacco purchased for the manufacture of  
25 cigarettes by cigarette distributors and manufacturers defined  
26 in the Cigarette Tax Act and persons who make, manufacture, or

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

5 "Wholesale price" means the established list price for  
6 which a manufacturer sells tobacco products to a distributor,  
7 before the allowance of any discount, trade allowance, rebate,  
8 or other reduction. In the absence of such an established list  
9 price, the manufacturer's invoice price at which the  
10 manufacturer sells the tobacco product to unaffiliated  
11 distributors, before any discounts, trade allowances, rebates,  
12 or other reductions, shall be presumed to be the wholesale  
13 price.

14 "Wholesaler" means any person, wherever resident or  
15 located, engaged in the business of selling tobacco products to  
16 others for the purpose of resale. "Wholesaler", when used in  
17 this Act, does not include a person licensed as a distributor  
18 under Section 10-20 of this Act unless expressly stated in this  
19 Act.

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

21 (35 ILCS 143/10-10)

22 Sec. 10-10. Tax imposed.

23 (a) Except as otherwise provided in this Section with  
24 respect to little cigars, on ~~on~~ the first day of the third  
25 month after the month in which this Act becomes law, a tax is

1 imposed on any person engaged in business as a distributor of  
2 tobacco products, as defined in Section 10-5, at the rate of  
3 (i) 18% of the wholesale price of tobacco products sold or  
4 otherwise disposed of to retailers or consumers located in this  
5 State prior to July 1, 2012 and (ii) 36% of the wholesale price  
6 of tobacco products sold or otherwise disposed of to retailers  
7 or consumers located in this State beginning on July 1, 2012;  
8 except that, beginning on January 1, 2013, the tax on moist  
9 snuff shall be imposed at a rate of \$0.30 per ounce, and a  
10 proportionate tax at the like rate on all fractional parts of  
11 an ounce, sold or otherwise disposed of to retailers or  
12 consumers located in this State. The tax is in addition to all  
13 other occupation or privilege taxes imposed by the State of  
14 Illinois, by any political subdivision thereof, or by any  
15 municipal corporation. However, the tax is not imposed upon any  
16 activity in that business in interstate commerce or otherwise,  
17 to the extent to which that activity may not, under the  
18 Constitution and Statutes of the United States, be made the  
19 subject of taxation by this State, and except that, beginning  
20 July 1, 2013, the tax on little cigars shall be imposed at the  
21 same rate, and the proceeds shall be distributed in the same  
22 manner, as the tax imposed on cigarettes under the Cigarette  
23 Tax Act. The tax is also not imposed on sales made to the  
24 United States or any entity thereof.

25 (b) Notwithstanding subsection (a) of this Section,  
26 stamping distributors of packages of little cigars containing

1 20 or 25 little cigars sold or otherwise disposed of in this  
2 State shall remit the tax by purchasing tax stamps from the  
3 Department and affixing them to packages of little cigars in  
4 the same manner as stamps are purchased and affixed to  
5 cigarettes under the Cigarette Tax Act, unless the stamping  
6 distributor sells or otherwise disposes of those packages of  
7 little cigars to another stamping distributor. Only persons  
8 meeting the definition of "stamping distributor" contained in  
9 Section 10-5 of this Act may affix stamps to packages of little  
10 cigars containing 20 or 25 little cigars. Stamping distributors  
11 may not sell or dispose of little cigars at retail to consumers  
12 or users at locations where stamping distributors affix stamps  
13 to packages of little cigars containing 20 or 25 little cigars.

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

1 little cigars containing 20 or 25 little cigars.

2 Stamping distributors paying the tax to the Department on  
3 packages of little cigars containing 20 or 25 little cigars  
4 sold to other distributors, wholesalers or retailers shall add  
5 the amount of the tax to the price of the packages of little  
6 cigars containing 20 or 25 little cigars sold by such stamping  
7 distributors.

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

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

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

23 (35 ILCS 143/10-15)

24 Sec. 10-15. Exempt sales. Purchases of tobacco products  
25 other than little cigars by wholesalers who will not sell the



1 product at retail are exempt from the tax imposed by this Act.  
2 Purchases of tobacco products other than little cigars by  
3 wholesalers and retailers for delivery of the product outside  
4 Illinois are exempt from the tax imposed by this Act. The  
5 wholesaler or retailer making the exempt sale of tobacco  
6 products other than little cigars shall document this exemption  
7 by obtaining a certification from the purchaser containing the  
8 seller's name and address, the purchaser's name and address,  
9 the date of purchase, the purchaser's signature, the  
10 purchaser's tobacco products tax license number, if  
11 applicable, and a statement that the purchaser is purchasing  
12 for resale other than for sale to consumers or is purchasing  
13 for delivery outside of Illinois.

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

15 (35 ILCS 143/10-26 new)

16 Sec. 10-26. Manufacturers; sale of little cigars.  
17 Manufacturers that are not stamping distributors may not sell  
18 little cigars to consumers in this State or to distributors,  
19 wholesalers or retailers, unless the distributors, wholesalers  
20 or retailers are stamping distributors. Manufacturers that are  
21 not stamping distributors may sell little cigars only to  
22 stamping distributors. Manufacturers that are not stamping  
23 distributors are prohibited from delivering little cigars to  
24 locations where sales of little cigars to consumers or users  
25 take place.

1 (35 ILCS 143/10-27 new)

2 Sec. 10-27. Retailers; purchase and possession of little  
3 cigars.

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

24 (b) For purchases of packages of little cigars containing  
25 other than 20 or 25 little cigars, retailers who are not

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

23 (c) Notwithstanding anything to the contrary in this Act, a  
24 retailer unknowingly possessing contraband little cigars  
25 obtained from a stamping distributor, distributor, or  
26 wholesaler or other person engaged in the business of selling

1 tobacco products or knowingly possessing contraband little  
2 cigars obtained from a stamping distributor is not subject to  
3 penalties for such purchase or possession if the retailer,  
4 within 48 hours after discovering that the little cigars are  
5 contraband little cigars, excluding Saturdays, Sundays, and  
6 holidays: (i) notifies the Department and the person from whom  
7 the little cigars were obtained, orally and in writing, that he  
8 or she possesses contraband little cigars; (ii) places the  
9 contraband little cigars in one or more containers and seals  
10 those containers; and (iii) places on the containers the  
11 following or similar language: "Contraband Little Cigars. Not  
12 For Sale." All contraband little cigars in the possession of a  
13 retailer remain subject to forfeiture under the provisions of  
14 this Act.

15 (35 ILCS 143/10-28 new)

16 Sec. 10-28. Wholesalers.

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

1 provided by the Department.

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

1 stamping distributor or was paid by the wholesaler may file a  
2 claim for credit for such sales with the Department on forms  
3 and in the manner provided by the Department.

4 (35 ILCS 143/10-29 new)

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

6 (a) Every sales invoice for packages of little cigars  
7 containing other than 20 or 25 little cigars issued by a  
8 stamping distributor to a person who is not a stamping  
9 distributor shall contain both the stamping distributor's  
10 Tobacco Products License number and Cigarette Tax  
11 Distributor's License number or Cigarette Use Tax  
12 Distributor's License number and state that the tax imposed by  
13 the Act has been or will be paid or that the sale is exempt in  
14 whole or in part and the exemption which is claimed.

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

25 (c) Whenever any sales invoice issued by a stamping

1 distributor, distributor or wholesaler for the sale of packages  
2 of little cigars containing other than 20 or 25 little cigars  
3 does not comply with subsection (b) of Section 10-28 or  
4 subsection (a) of this Section by indicating that the tax has  
5 been or will be paid or that the sale is exempt in whole or in  
6 part, a prima facie presumption shall arise that the tax  
7 imposed by Section 10-10 of this Act has not been paid on the  
8 little cigars listed on the sales invoice. A person who is not  
9 a stamping distributor and is unable to rebut this presumption  
10 is in violation of this Act and is subject to the penalties  
11 provided in this Act.

12 (35 ILCS 143/10-30)

13 Sec. 10-30. Returns.

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

22 (b) In addition to the information required under  
23 subsection (a), on or before the 15th day of each month,  
24 covering the preceding calendar month, each stamping  
25 distributor shall, on forms prescribed and furnished by the

1 Department, report the quantity of little cigars sold or  
2 otherwise disposed of, including the number of packages of  
3 little cigars sold or disposed of during the month containing  
4 20 or 25 little cigars.

5 (c) At the time when any return of any distributor is due  
6 to be filed with the Department, the distributor shall also  
7 remit to the Department the tax liability that the distributor  
8 has incurred for transactions occurring in the preceding  
9 calendar month.

10 (d) The Department may adopt rules to require the  
11 electronic filing of any return or document required to be  
12 filed under this Act. Those rules may provide for exceptions  
13 from the filing requirement set forth in this paragraph for  
14 persons who demonstrate that they do not have access to the  
15 Internet and petition the Department to waive the electronic  
16 filing requirement.

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

18 (35 ILCS 143/10-36 new)

19 Sec. 10-36. Recordkeeping by retailers. Every retailer  
20 shall keep complete and accurate records of tobacco products  
21 held and purchased, and tobacco products sold or otherwise  
22 disposed of, and shall preserve and keep all invoices, bills of  
23 lading, sales records, and copies of bills of sale. Books,  
24 records, papers, and documents that are required by this Act to  
25 be kept shall, at all times during the usual business hours of



1 the day, be subject to inspection by the Department or its duly  
2 authorized agents and employees. The books, records, papers,  
3 and documents for any period with respect to which the  
4 Department is authorized to issue a notice of tax liability  
5 shall be preserved until the expiration of that period.

6 (35 ILCS 143/10-45)

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

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

1 mean sales of little cigars in packages of 20 or 25 little  
2 cigars.

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

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