

AN ACT concerning tobacco.

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

Section 1. Short title. This Act may be cited as the Prevention of Cigarette Sales to Minors Act.

Section 5. Unlawful shipment or transportation of cigarettes.

(a) It is unlawful for any person engaged in the business of selling cigarettes to ship or cause to be shipped any cigarettes unless the person shipping the cigarettes:

(1) is licensed as a distributor under either the Cigarette Tax Act, or the Cigarette Use Tax Act; or delivers the cigarettes to a distributor licensed under either the Cigarette Tax Act or the Cigarette Use Tax Act; or

(2) ships them to an export warehouse proprietor pursuant to Chapter 52 of the Internal Revenue Code, or an operator of a customs bonded warehouse pursuant to Section 1311 or 1555 of Title 19 of the United States Code.

For purposes of this subsection (a), a person is a licensed distributor if the person's name appears on a list of licensed distributors published by the Illinois Department of Revenue. The term cigarette has the same meaning as defined in Section 1 of the Cigarette Tax Act and Section 1 of the Cigarette Use Tax Act. Nothing in this Act prohibits a person licensed as a distributor under the Cigarette Tax Act or the Cigarette Use Tax Act from shipping or causing to be shipped any cigarettes to a registered retailer under the Retailers' Occupation Tax Act provided the cigarette tax or cigarette use tax has been paid.

(b) A common or contract carrier may transport cigarettes to any individual person in this State only if the carrier

reasonably believes such cigarettes have been received from a person described in paragraph (a)(1). Common or contract carriers may make deliveries of cigarettes to licensed distributors described in paragraph (a)(1) of this Section. Nothing in this subsection (b) shall be construed to prohibit a person other than a common or contract carrier from transporting not more than 1,000 cigarettes at any one time to any person in this State.

(c) A common or contract carrier may not complete the delivery of any cigarettes to persons other than those described in paragraph (a)(1) of this Section without first obtaining from the purchaser an official written identification from any state or federal agency that displays the person's date of birth or a birth certificate that includes a reliable confirmation that the purchaser is at least 18 years of age; that the cigarettes purchased are not intended for consumption by an individual who is younger than 18 years of age; and a written statement signed by the purchaser that certifies the purchaser's address and that the purchaser is at least 18 years of age. The statement shall also confirm: (1) that the purchaser understands that signing another person's name to the certification is illegal; (2) that the sale of cigarettes to individuals under 18 years of age is illegal; and (3) that the purchase of cigarettes by individuals under 18 years of age is illegal under the laws of Illinois.

(d) When a person engaged in the business of selling cigarettes ships or causes to be shipped any cigarettes to any person in this State, other than in the cigarette manufacturer's or tobacco products manufacturer's original container or wrapping, the container or wrapping must be plainly and visibly marked with the word "cigarettes".

(e) When a peace officer of this State or any duly authorized officer or employee of the Illinois Department of Public Health or Department of Revenue discovers any cigarettes which have been or which are being shipped or transported in violation of this Section, he or she shall seize and take

possession of the cigarettes, and the cigarettes shall be subject to a forfeiture action pursuant to the procedures provided under the Cigarette Tax Act or Cigarette Use Tax Act.

Section 10. Violation.

(a) A person who violates subsection (a), (b), or (c) of Section 5 is guilty of a Class A misdemeanor. A second or subsequent violation of subsection (a), (b), or (c) of Section 5 is a Class 4 felony.

(b) The Department of Revenue shall impose a civil penalty not to exceed \$5,000 on any person who violates subsection (a), (b), or (c) of Section 5. The Department of Revenue shall impose a civil penalty not to exceed \$5,000 on any person engaged in the business of selling cigarettes who ships or causes to be shipped any such cigarettes to any person in this State in violation of subsection (d) of Section 5.

(c) Any person aggrieved by any decision of the Department of Revenue may, within 60 days after notice of that decision, protest in writing and request a hearing. The Department of Revenue shall give notice to the person of the time and place for the hearing and shall hold a hearing before it issues a final administrative decision. Absent a written protest within 60 days, the Department's decision shall become final without any further determination made or notice given.

Section 99. Effective date. This Act takes effect July 1, 2004.