

AN ACT concerning criminal law.

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

Section 5. The Liquor Control Act of 1934 is amended by changing Sections 3-12 and 6-16.1 as follows:

(235 ILCS 5/3-12) (from Ch. 43, par. 108)

Sec. 3-12. Powers and duties of State Commission.

(a) The State commission shall have the following powers, functions and duties:

(1) To receive applications and to issue licenses to manufacturers, foreign importers, importing distributors, distributors, non-resident dealers, on premise consumption retailers, off premise sale retailers, special event retailer licensees, special use permit licenses, auction liquor licenses, brew pubs, caterer retailers, non-beverage users, railroads, including owners and lessees of sleeping, dining and cafe cars, airplanes, boats, brokers, and wine maker's premises licensees in accordance with the provisions of this Act, and to suspend or revoke such licenses upon the State commission's determination, upon notice after hearing, that a licensee has violated any provision of this Act or any rule or regulation issued pursuant thereto and in effect for 30

days prior to such violation. Except in the case of an action taken pursuant to a violation of Section 6-3, 6-5, or 6-9, any action by the State Commission to suspend or revoke a licensee's license may be limited to the license for the specific premises where the violation occurred.

In lieu of suspending or revoking a license, the commission may impose a fine, upon the State commission's determination and notice after hearing, that a licensee has violated any provision of this Act or any rule or regulation issued pursuant thereto and in effect for 30 days prior to such violation. The fine imposed under this paragraph may not exceed \$500 for each violation. Each day that the activity, which gave rise to the original fine, continues is a separate violation. The maximum fine that may be levied against any licensee, for the period of the license, shall not exceed \$20,000. The maximum penalty that may be imposed on a licensee for selling a bottle of alcoholic liquor with a foreign object in it or serving from a bottle of alcoholic liquor with a foreign object in it shall be the destruction of that bottle of alcoholic liquor for the first 10 bottles so sold or served from by the licensee. For the eleventh bottle of alcoholic liquor and for each third bottle thereafter sold or served from by the licensee with a foreign object in it, the maximum penalty that may be imposed on the licensee is the destruction of the bottle of alcoholic liquor and a fine of

up to \$50.

(2) To adopt such rules and regulations consistent with the provisions of this Act which shall be necessary to carry on its functions and duties to the end that the health, safety and welfare of the People of the State of Illinois shall be protected and temperance in the consumption of alcoholic liquors shall be fostered and promoted and to distribute copies of such rules and regulations to all licensees affected thereby.

(3) To call upon other administrative departments of the State, county and municipal governments, county and city police departments and upon prosecuting officers for such information and assistance as it deems necessary in the performance of its duties.

(4) To recommend to local commissioners rules and regulations, not inconsistent with the law, for the distribution and sale of alcoholic liquors throughout the State.

(5) To inspect, or cause to be inspected, any premises in this State where alcoholic liquors are manufactured, distributed, warehoused, or sold.

(5.1) Upon receipt of a complaint or upon having knowledge that any person is engaged in business as a manufacturer, importing distributor, distributor, or retailer without a license or valid license, to notify the local liquor authority, file a complaint with the State's

Attorney's Office of the county where the incident occurred, or initiate an investigation with the appropriate law enforcement officials.

(5.2) To issue a cease and desist notice to persons shipping alcoholic liquor into this State from a point outside of this State if the shipment is in violation of this Act.

(5.3) To receive complaints from licensees, local officials, law enforcement agencies, organizations, and persons stating that any licensee has been or is violating any provision of this Act or the rules and regulations issued pursuant to this Act. Such complaints shall be in writing, signed and sworn to by the person making the complaint, and shall state with specificity the facts in relation to the alleged violation. If the Commission has reasonable grounds to believe that the complaint substantially alleges a violation of this Act or rules and regulations adopted pursuant to this Act, it shall conduct an investigation. If, after conducting an investigation, the Commission is satisfied that the alleged violation did occur, it shall proceed with disciplinary action against the licensee as provided in this Act.

(6) To hear and determine appeals from orders of a local commission in accordance with the provisions of this Act, as hereinafter set forth. Hearings under this subsection shall be held in Springfield or Chicago, at

whichever location is the more convenient for the majority of persons who are parties to the hearing.

(7) The commission shall establish uniform systems of accounts to be kept by all retail licensees having more than 4 employees, and for this purpose the commission may classify all retail licensees having more than 4 employees and establish a uniform system of accounts for each class and prescribe the manner in which such accounts shall be kept. The commission may also prescribe the forms of accounts to be kept by all retail licensees having more than 4 employees, including but not limited to accounts of earnings and expenses and any distribution, payment, or other distribution of earnings or assets, and any other forms, records and memoranda which in the judgment of the commission may be necessary or appropriate to carry out any of the provisions of this Act, including but not limited to such forms, records and memoranda as will readily and accurately disclose at all times the beneficial ownership of such retail licensed business. The accounts, forms, records and memoranda shall be available at all reasonable times for inspection by authorized representatives of the State commission or by any local liquor control commissioner or his or her authorized representative. The commission, may, from time to time, alter, amend or repeal, in whole or in part, any uniform system of accounts, or the form and manner of keeping accounts.

(8) In the conduct of any hearing authorized to be held by the commission, to appoint, at the commission's discretion, hearing officers to conduct hearings involving complex issues or issues that will require a protracted period of time to resolve, to examine, or cause to be examined, under oath, any licensee, and to examine or cause to be examined the books and records of such licensee; to hear testimony and take proof material for its information in the discharge of its duties hereunder; to administer or cause to be administered oaths; for any such purpose to issue subpoena or subpoenas to require the attendance of witnesses and the production of books, which shall be effective in any part of this State, and to adopt rules to implement its powers under this paragraph (8).

Any Circuit Court may by order duly entered, require the attendance of witnesses and the production of relevant books subpoenaed by the State commission and the court may compel obedience to its order by proceedings for contempt.

(9) To investigate the administration of laws in relation to alcoholic liquors in this and other states and any foreign countries, and to recommend from time to time to the Governor and through him or her to the legislature of this State, such amendments to this Act, if any, as it may think desirable and as will serve to further the general broad purposes contained in Section 1-2 hereof.

(10) To adopt such rules and regulations consistent

with the provisions of this Act which shall be necessary for the control, sale or disposition of alcoholic liquor damaged as a result of an accident, wreck, flood, fire or other similar occurrence.

(11) To develop industry educational programs related to responsible serving and selling, particularly in the areas of overserving consumers and illegal underage purchasing and consumption of alcoholic beverages.

(11.1) To license persons providing education and training to alcohol beverage sellers and servers under the Beverage Alcohol Sellers and Servers Education and Training (BASSET) programs and to develop and administer a public awareness program in Illinois to reduce or eliminate the illegal purchase and consumption of alcoholic beverage products by persons under the age of 21. Application for a license shall be made on forms provided by the State Commission.

(12) To develop and maintain a repository of license and regulatory information.

(13) On or before January 15, 1994, the Commission shall issue a written report to the Governor and General Assembly that is to be based on a comprehensive study of the impact on and implications for the State of Illinois of Section 1926 of the Federal ADAMHA Reorganization Act of 1992 (Public Law 102-321). This study shall address the extent to which Illinois currently complies with the

provisions of P.L. 102-321 and the rules promulgated pursuant thereto.

As part of its report, the Commission shall provide the following essential information:

(i) the number of retail distributors of tobacco products, by type and geographic area, in the State;

(ii) the number of reported citations and successful convictions, categorized by type and location of retail distributor, for violation of the Prevention of Tobacco Use by ~~Sale of Tobacco to~~ Minors Act and the Smokeless Tobacco Limitation Act;

(iii) the extent and nature of organized educational and governmental activities that are intended to promote, encourage or otherwise secure compliance with any Illinois laws that prohibit the sale or distribution of tobacco products to minors; and

(iv) the level of access and availability of tobacco products to individuals under the age of 18.

To obtain the data necessary to comply with the provisions of P.L. 102-321 and the requirements of this report, the Commission shall conduct random, unannounced inspections of a geographically and scientifically representative sample of the State's retail tobacco distributors.

The Commission shall consult with the Department of Public Health, the Department of Human Services, the

Illinois State Police and any other executive branch agency, and private organizations that may have information relevant to this report.

The Commission may contract with the Food and Drug Administration of the U.S. Department of Health and Human Services to conduct unannounced investigations of Illinois tobacco vendors to determine compliance with federal laws relating to the illegal sale of cigarettes and smokeless tobacco products to persons under the age of 18.

(14) On or before April 30, 2008 and every 2 years thereafter, the Commission shall present a written report to the Governor and the General Assembly that shall be based on a study of the impact of this amendatory Act of the 95th General Assembly on the business of soliciting, selling, and shipping wine from inside and outside of this State directly to residents of this State. As part of its report, the Commission shall provide all of the following information:

(A) The amount of State excise and sales tax revenues generated.

(B) The amount of licensing fees received.

(C) The number of cases of wine shipped from inside and outside of this State directly to residents of this State.

(D) The number of alcohol compliance operations conducted.

(E) The number of winery shipper's licenses issued.

(F) The number of each of the following: reported violations; cease and desist notices issued by the Commission; notices of violations issued by the Commission and to the Department of Revenue; and notices and complaints of violations to law enforcement officials, including, without limitation, the Illinois Attorney General and the U.S. Department of Treasury's Alcohol and Tobacco Tax and Trade Bureau.

(15) As a means to reduce the underage consumption of alcoholic liquors, the Commission shall conduct alcohol compliance operations to investigate whether businesses that are soliciting, selling, and shipping wine from inside or outside of this State directly to residents of this State are licensed by this State or are selling or attempting to sell wine to persons under 21 years of age in violation of this Act.

(16) The Commission shall, in addition to notifying any appropriate law enforcement agency, submit notices of complaints or violations of Sections 6-29 and 6-29.1 by persons who do not hold a winery shipper's license under this amendatory Act to the Illinois Attorney General and to the U.S. Department of Treasury's Alcohol and Tobacco Tax and Trade Bureau.

(17) (A) A person licensed to make wine under the laws

of another state who has a winery shipper's license under this amendatory Act and annually produces less than 25,000 gallons of wine or a person who has a first-class or second-class wine manufacturer's license, a first-class or second-class wine-maker's license, or a limited wine manufacturer's license under this Act and annually produces less than 25,000 gallons of wine may make application to the Commission for a self-distribution exemption to allow the sale of not more than 5,000 gallons of the exemption holder's wine to retail licensees per year.

(B) In the application, which shall be sworn under penalty of perjury, such person shall state (1) the date it was established; (2) its volume of production and sales for each year since its establishment; (3) its efforts to establish distributor relationships; (4) that a self-distribution exemption is necessary to facilitate the marketing of its wine; and (5) that it will comply with the liquor and revenue laws of the United States, this State, and any other state where it is licensed.

(C) The Commission shall approve the application for a self-distribution exemption if such person: (1) is in compliance with State revenue and liquor laws; (2) is not a member of any affiliated group that produces more than 25,000 gallons of wine per annum or

produces any other alcoholic liquor; (3) will not annually produce for sale more than 25,000 gallons of wine; and (4) will not annually sell more than 5,000 gallons of its wine to retail licensees.

(D) A self-distribution exemption holder shall annually certify to the Commission its production of wine in the previous 12 months and its anticipated production and sales for the next 12 months. The Commission may fine, suspend, or revoke a self-distribution exemption after a hearing if it finds that the exemption holder has made a material misrepresentation in its application, violated a revenue or liquor law of Illinois, exceeded production of 25,000 gallons of wine in any calendar year, or become part of an affiliated group producing more than 25,000 gallons of wine or any other alcoholic liquor.

(E) Except in hearings for violations of this Act or amendatory Act or a bona fide investigation by duly sworn law enforcement officials, the Commission, or its agents, the Commission shall maintain the production and sales information of a self-distribution exemption holder as confidential and shall not release such information to any person.

(F) The Commission shall issue regulations governing self-distribution exemptions consistent with this Section and this Act.

(G) Nothing in this subsection (17) shall prohibit a self-distribution exemption holder from entering into or simultaneously having a distribution agreement with a licensed Illinois distributor.

(H) It is the intent of this subsection (17) to promote and continue orderly markets. The General Assembly finds that in order to preserve Illinois' regulatory distribution system it is necessary to create an exception for smaller makers of wine as their wines are frequently adjusted in varietals, mixes, vintages, and taste to find and create market niches sometimes too small for distributor or importing distributor business strategies. Limited self-distribution rights will afford and allow smaller makers of wine access to the marketplace in order to develop a customer base without impairing the integrity of the 3-tier system.

(b) On or before April 30, 1999, the Commission shall present a written report to the Governor and the General Assembly that shall be based on a study of the impact of this amendatory Act of 1998 on the business of soliciting, selling, and shipping alcoholic liquor from outside of this State directly to residents of this State.

As part of its report, the Commission shall provide the following information:

(i) the amount of State excise and sales tax revenues

generated as a result of this amendatory Act of 1998;

(ii) the amount of licensing fees received as a result of this amendatory Act of 1998;

(iii) the number of reported violations, the number of cease and desist notices issued by the Commission, the number of notices of violations issued to the Department of Revenue, and the number of notices and complaints of violations to law enforcement officials.

(Source: P.A. 95-634, eff. 6-1-08.)

(235 ILCS 5/6-16.1)

Sec. 6-16.1. Enforcement actions.

(a) A licensee or an officer, associate, member, representative, agent, or employee of a licensee may sell, give, or deliver alcoholic liquor to a person under the age of 21 years or authorize the sale, gift, or delivery of alcoholic liquor to a person under the age of 21 years pursuant to a plan or action to investigate, patrol, or otherwise conduct a "sting operation" or enforcement action against a person employed by the licensee or on any licensed premises if the licensee or officer, associate, member, representative, agent, or employee of the licensee provides written notice, at least 14 days before the "sting operation" or enforcement action, unless governing body of the municipality or county having jurisdiction sets a shorter period by ordinance, to the law enforcement agency having jurisdiction, the local liquor

control commissioner, or both. Notice provided under this Section shall be valid for a "sting operation" or enforcement action conducted within 60 days of the provision of that notice, unless the governing body of the municipality or county having jurisdiction sets a shorter period by ordinance.

(b) A local liquor control commission or unit of local government that conducts alcohol and tobacco compliance operations shall establish a policy and standards for alcohol and tobacco compliance operations to investigate whether a licensee is furnishing (1) alcoholic liquor to persons under 21 years of age in violation of this Act or (2) tobacco to persons in violation of the Prevention of Tobacco Use by Sale of Tobacco to Minors Act.

(c) The Illinois Law Enforcement Training Standards Board shall develop a model policy and guidelines for the operation of alcohol and tobacco compliance checks by local law enforcement officers. The Illinois Law Enforcement Training Standards Board shall also require the supervising officers of such compliance checks to have met a minimum training standard as determined by the Board. The Board shall have the right to waive any training based on current written policies and procedures for alcohol and tobacco compliance check operations and in-service training already administered by the local law enforcement agency, department, or office.

(d) The provisions of subsections (b) and (c) do not apply to a home rule unit with more than 2,000,000 inhabitants.

(e) A home rule unit, other than a home rule unit with more than 2,000,000 inhabitants, may not regulate enforcement actions in a manner inconsistent with the regulation of enforcement actions under this Section. This subsection (e) is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

(f) A licensee who is the subject of an enforcement action or "sting operation" under this Section and is found, pursuant to the enforcement action, to be in compliance with this Act shall be notified by the enforcement agency action that no violation was found within 30 days after the finding.

(Source: P.A. 92-503, eff. 1-1-02; 93-1057, eff. 12-2-04.)

Section 10. The Juvenile Court Act of 1987 is amended by changing Sections 5-615 and 5-710 as follows:

(705 ILCS 405/5-615)

Sec. 5-615. Continuance under supervision.

(1) The court may enter an order of continuance under supervision for an offense other than first degree murder, a Class X felony or a forcible felony (a) upon an admission or stipulation by the appropriate respondent or minor respondent of the facts supporting the petition and before proceeding to adjudication, or after hearing the evidence at the trial, and (b) in the absence of objection made in open court by the

minor, his or her parent, guardian, or legal custodian, the minor's attorney or the State's Attorney.

(2) If the minor, his or her parent, guardian, or legal custodian, the minor's attorney or State's Attorney objects in open court to any continuance and insists upon proceeding to findings and adjudication, the court shall so proceed.

(3) Nothing in this Section limits the power of the court to order a continuance of the hearing for the production of additional evidence or for any other proper reason.

(4) When a hearing where a minor is alleged to be a delinquent is continued pursuant to this Section, the period of continuance under supervision may not exceed 24 months. The court may terminate a continuance under supervision at any time if warranted by the conduct of the minor and the ends of justice.

(5) When a hearing where a minor is alleged to be delinquent is continued pursuant to this Section, the court may, as conditions of the continuance under supervision, require the minor to do any of the following:

(a) not violate any criminal statute of any jurisdiction;

(b) make a report to and appear in person before any person or agency as directed by the court;

(c) work or pursue a course of study or vocational training;

(d) undergo medical or psychotherapeutic treatment

rendered by a therapist licensed under the provisions of the Medical Practice Act of 1987, the Clinical Psychologist Licensing Act, or the Clinical Social Work and Social Work Practice Act, or an entity licensed by the Department of Human Services as a successor to the Department of Alcoholism and Substance Abuse, for the provision of drug addiction and alcoholism treatment;

(e) attend or reside in a facility established for the instruction or residence of persons on probation;

(f) support his or her dependents, if any;

(g) pay costs;

(h) refrain from possessing a firearm or other dangerous weapon, or an automobile;

(i) permit the probation officer to visit him or her at his or her home or elsewhere;

(j) reside with his or her parents or in a foster home;

(k) attend school;

(k-5) with the consent of the superintendent of the facility, attend an educational program at a facility other than the school in which the offense was committed if he or she committed a crime of violence as defined in Section 2 of the Crime Victims Compensation Act in a school, on the real property comprising a school, or within 1,000 feet of the real property comprising a school;

(l) attend a non-residential program for youth;

(m) contribute to his or her own support at home or in

a foster home;

(n) perform some reasonable public or community service;

(o) make restitution to the victim, in the same manner and under the same conditions as provided in subsection (4) of Section 5-710, except that the "sentencing hearing" referred to in that Section shall be the adjudicatory hearing for purposes of this Section;

(p) comply with curfew requirements as designated by the court;

(q) refrain from entering into a designated geographic area except upon terms as the court finds appropriate. The terms may include consideration of the purpose of the entry, the time of day, other persons accompanying the minor, and advance approval by a probation officer;

(r) refrain from having any contact, directly or indirectly, with certain specified persons or particular types of persons, including but not limited to members of street gangs and drug users or dealers;

(r-5) undergo a medical or other procedure to have a tattoo symbolizing allegiance to a street gang removed from his or her body;

(s) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act, the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act,

unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug; or

(t) comply with any other conditions as may be ordered by the court.

(6) A minor whose case is continued under supervision under subsection (5) shall be given a certificate setting forth the conditions imposed by the court. Those conditions may be reduced, enlarged, or modified by the court on motion of the probation officer or on its own motion, or that of the State's Attorney, or, at the request of the minor after notice and hearing.

(7) If a petition is filed charging a violation of a condition of the continuance under supervision, the court shall conduct a hearing. If the court finds that a condition of supervision has not been fulfilled, the court may proceed to findings and adjudication and disposition. The filing of a petition for violation of a condition of the continuance under supervision shall toll the period of continuance under supervision until the final determination of the charge, and the term of the continuance under supervision shall not run until the hearing and disposition of the petition for violation; provided where the petition alleges conduct that does not constitute a criminal offense, the hearing must be held within 30 days of the filing of the petition unless a delay shall continue the tolling of the period of continuance

under supervision for the period of the delay.

(8) When a hearing in which a minor is alleged to be a delinquent for reasons that include a violation of Section 21-1.3 of the Criminal Code of 1961 is continued under this Section, the court shall, as a condition of the continuance under supervision, require the minor to perform community service for not less than 30 and not more than 120 hours, if community service is available in the jurisdiction. The community service shall include, but need not be limited to, the cleanup and repair of the damage that was caused by the alleged violation or similar damage to property located in the municipality or county in which the alleged violation occurred. The condition may be in addition to any other condition.

(8.5) When a hearing in which a minor is alleged to be a delinquent for reasons that include a violation of Section 3.02 or Section 3.03 of the Humane Care for Animals Act or paragraph (d) of subsection (1) of Section 21-1 of the Criminal Code of 1961 is continued under this Section, the court shall, as a condition of the continuance under supervision, require the minor to undergo medical or psychiatric treatment rendered by a psychiatrist or psychological treatment rendered by a clinical psychologist. The condition may be in addition to any other condition.

(9) When a hearing in which a minor is alleged to be a delinquent is continued under this Section, the court, before continuing the case, shall make a finding whether the offense

alleged to have been committed either: (i) was related to or in furtherance of the activities of an organized gang or was motivated by the minor's membership in or allegiance to an organized gang, or (ii) is a violation of paragraph (13) of subsection (a) of Section 12-2 of the Criminal Code of 1961, a violation of any Section of Article 24 of the Criminal Code of 1961, or a violation of any statute that involved the unlawful use of a firearm. If the court determines the question in the affirmative the court shall, as a condition of the continuance under supervision and as part of or in addition to any other condition of the supervision, require the minor to perform community service for not less than 30 hours, provided that community service is available in the jurisdiction and is funded and approved by the county board of the county where the offense was committed. The community service shall include, but need not be limited to, the cleanup and repair of any damage caused by an alleged violation of Section 21-1.3 of the Criminal Code of 1961 and similar damage to property located in the municipality or county in which the alleged violation occurred. When possible and reasonable, the community service shall be performed in the minor's neighborhood. For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(10) The court shall impose upon a minor placed on supervision, as a condition of the supervision, a fee of \$25

for each month of supervision ordered by the court, unless after determining the inability of the minor placed on supervision to pay the fee, the court assesses a lesser amount. The court may not impose the fee on a minor who is made a ward of the State under this Act while the minor is in placement. The fee shall be imposed only upon a minor who is actively supervised by the probation and court services department. A court may order the parent, guardian, or legal custodian of the minor to pay some or all of the fee on the minor's behalf.

(11) If a minor is placed on supervision for a violation of subsection (a-7) of Section 1 of the Prevention of Tobacco Use by Minors Act, the court may, in its discretion, and upon recommendation by the State's Attorney, order that minor and his or her parents or legal guardian to attend a smoker's education or youth diversion program as defined in that Act if that program is available in the jurisdiction where the offender resides. Attendance at a smoker's education or youth diversion program shall be time-credited against any community service time imposed for any first violation of subsection (a-7) of Section 1 of that Act. In addition to any other penalty that the court may impose for a violation of subsection (a-7) of Section 1 of that Act, the court, upon request by the State's Attorney, may in its discretion require the offender to remit a fee for his or her attendance at a smoker's education or youth diversion program.

For purposes of this Section, "smoker's education program"

or "youth diversion program" includes, but is not limited to, a seminar designed to educate a person on the physical and psychological effects of smoking tobacco products and the health consequences of smoking tobacco products that can be conducted with a locality's youth diversion program.

In addition to any other penalty that the court may impose under this subsection (11):

(a) If a minor violates subsection (a-7) of Section 1 of the Prevention of Tobacco Use by Minors Act, the court may impose a sentence of 15 hours of community service or a fine of \$25 for a first violation.

(b) A second violation by a minor of subsection (a-7) of Section 1 of that Act that occurs within 12 months after the first violation is punishable by a fine of \$50 and 25 hours of community service.

(c) A third or subsequent violation by a minor of subsection (a-7) of Section 1 of that Act that occurs within 12 months after the first violation is punishable by a \$100 fine and 30 hours of community service.

(d) Any second or subsequent violation not within the 12-month time period after the first violation is punishable as provided for a first violation.

(Source: P.A. eff. 1-1-00; 94-556, eff. 9-11-05.)

(705 ILCS 405/5-710)

Sec. 5-710. Kinds of sentencing orders.

(1) The following kinds of sentencing orders may be made in respect of wards of the court:

(a) Except as provided in Sections 5-805, 5-810, 5-815, a minor who is found guilty under Section 5-620 may be:

(i) put on probation or conditional discharge and released to his or her parents, guardian or legal custodian, provided, however, that any such minor who is not committed to the Department of Juvenile Justice under this subsection and who is found to be a delinquent for an offense which is first degree murder, a Class X felony, or a forcible felony shall be placed on probation;

(ii) placed in accordance with Section 5-740, with or without also being put on probation or conditional discharge;

(iii) required to undergo a substance abuse assessment conducted by a licensed provider and participate in the indicated clinical level of care;

(iv) placed in the guardianship of the Department of Children and Family Services, but only if the delinquent minor is under 15 years of age or, pursuant to Article II of this Act, a minor for whom an independent basis of abuse, neglect, or dependency exists. An independent basis exists when the allegations or adjudication of abuse, neglect, or dependency do not arise from the same facts, incident,

or circumstances which give rise to a charge or adjudication of delinquency;

(v) placed in detention for a period not to exceed 30 days, either as the exclusive order of disposition or, where appropriate, in conjunction with any other order of disposition issued under this paragraph, provided that any such detention shall be in a juvenile detention home and the minor so detained shall be 10 years of age or older. However, the 30-day limitation may be extended by further order of the court for a minor under age 15 committed to the Department of Children and Family Services if the court finds that the minor is a danger to himself or others. The minor shall be given credit on the sentencing order of detention for time spent in detention under Sections 5-501, 5-601, 5-710, or 5-720 of this Article as a result of the offense for which the sentencing order was imposed. The court may grant credit on a sentencing order of detention entered under a violation of probation or violation of conditional discharge under Section 5-720 of this Article for time spent in detention before the filing of the petition alleging the violation. A minor shall not be deprived of credit for time spent in detention before the filing of a violation of probation or conditional discharge alleging the same or related act or acts;

(vi) ordered partially or completely emancipated in accordance with the provisions of the Emancipation of Minors Act;

(vii) subject to having his or her driver's license or driving privileges suspended for such time as determined by the court but only until he or she attains 18 years of age;

(viii) put on probation or conditional discharge and placed in detention under Section 3-6039 of the Counties Code for a period not to exceed the period of incarceration permitted by law for adults found guilty of the same offense or offenses for which the minor was adjudicated delinquent, and in any event no longer than upon attainment of age 21; this subdivision (viii) notwithstanding any contrary provision of the law; or

(ix) ordered to undergo a medical or other procedure to have a tattoo symbolizing allegiance to a street gang removed from his or her body.

(b) A minor found to be guilty may be committed to the Department of Juvenile Justice under Section 5-750 if the minor is 13 years of age or older, provided that the commitment to the Department of Juvenile Justice shall be made only if a term of incarceration is permitted by law for adults found guilty of the offense for which the minor was adjudicated delinquent. The time during which a minor is in custody before being released upon the request of a

parent, guardian or legal custodian shall be considered as time spent in detention.

(c) When a minor is found to be guilty for an offense which is a violation of the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act and made a ward of the court, the court may enter a disposition order requiring the minor to undergo assessment, counseling or treatment in a substance abuse program approved by the Department of Human Services.

(2) Any sentencing order other than commitment to the Department of Juvenile Justice may provide for protective supervision under Section 5-725 and may include an order of protection under Section 5-730.

(3) Unless the sentencing order expressly so provides, it does not operate to close proceedings on the pending petition, but is subject to modification until final closing and discharge of the proceedings under Section 5-750.

(4) In addition to any other sentence, the court may order any minor found to be delinquent to make restitution, in monetary or non-monetary form, under the terms and conditions of Section 5-5-6 of the Unified Code of Corrections, except that the "presentencing hearing" referred to in that Section shall be the sentencing hearing for purposes of this Section. The parent, guardian or legal custodian of the minor may be ordered by the court to pay some or all of the restitution on

the minor's behalf, pursuant to the Parental Responsibility Law. The State's Attorney is authorized to act on behalf of any victim in seeking restitution in proceedings under this Section, up to the maximum amount allowed in Section 5 of the Parental Responsibility Law.

(5) Any sentencing order where the minor is committed or placed in accordance with Section 5-740 shall provide for the parents or guardian of the estate of the minor to pay to the legal custodian or guardian of the person of the minor such sums as are determined by the custodian or guardian of the person of the minor as necessary for the minor's needs. The payments may not exceed the maximum amounts provided for by Section 9.1 of the Children and Family Services Act.

(6) Whenever the sentencing order requires the minor to attend school or participate in a program of training, the truant officer or designated school official shall regularly report to the court if the minor is a chronic or habitual truant under Section 26-2a of the School Code. Notwithstanding any other provision of this Act, in instances in which educational services are to be provided to a minor in a residential facility where the minor has been placed by the court, costs incurred in the provision of those educational services must be allocated based on the requirements of the School Code.

(7) In no event shall a guilty minor be committed to the Department of Juvenile Justice for a period of time in excess

of that period for which an adult could be committed for the same act.

(8) A minor found to be guilty for reasons that include a violation of Section 21-1.3 of the Criminal Code of 1961 shall be ordered to perform community service for not less than 30 and not more than 120 hours, if community service is available in the jurisdiction. The community service shall include, but need not be limited to, the cleanup and repair of the damage that was caused by the violation or similar damage to property located in the municipality or county in which the violation occurred. The order may be in addition to any other order authorized by this Section.

(8.5) A minor found to be guilty for reasons that include a violation of Section 3.02 or Section 3.03 of the Humane Care for Animals Act or paragraph (d) of subsection (1) of Section 21-1 of the Criminal Code of 1961 shall be ordered to undergo medical or psychiatric treatment rendered by a psychiatrist or psychological treatment rendered by a clinical psychologist. The order may be in addition to any other order authorized by this Section.

(9) In addition to any other sentencing order, the court shall order any minor found to be guilty for an act which would constitute, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse, or criminal sexual abuse if committed by an adult to undergo medical testing to determine

whether the defendant has any sexually transmissible disease including a test for infection with human immunodeficiency virus (HIV) or any other identified causative agency of acquired immunodeficiency syndrome (AIDS). Any medical test shall be performed only by appropriately licensed medical practitioners and may include an analysis of any bodily fluids as well as an examination of the minor's person. Except as otherwise provided by law, the results of the test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the sentencing order was entered for the judge's inspection in camera. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom the results of the testing may be revealed. The court shall notify the minor of the results of the test for infection with the human immunodeficiency virus (HIV). The court shall also notify the victim if requested by the victim, and if the victim is under the age of 15 and if requested by the victim's parents or legal guardian, the court shall notify the victim's parents or the legal guardian, of the results of the test for infection with the human immunodeficiency virus (HIV). The court shall provide information on the availability of HIV testing and counseling at the Department of Public Health facilities to all parties to whom the results of the testing are revealed. The court shall order that the cost of any test

shall be paid by the county and may be taxed as costs against the minor.

(10) When a court finds a minor to be guilty the court shall, before entering a sentencing order under this Section, make a finding whether the offense committed either: (a) was related to or in furtherance of the criminal activities of an organized gang or was motivated by the minor's membership in or allegiance to an organized gang, or (b) involved a violation of subsection (a) of Section 12-7.1 of the Criminal Code of 1961, a violation of any Section of Article 24 of the Criminal Code of 1961, or a violation of any statute that involved the wrongful use of a firearm. If the court determines the question in the affirmative, and the court does not commit the minor to the Department of Juvenile Justice, the court shall order the minor to perform community service for not less than 30 hours nor more than 120 hours, provided that community service is available in the jurisdiction and is funded and approved by the county board of the county where the offense was committed. The community service shall include, but need not be limited to, the cleanup and repair of any damage caused by a violation of Section 21-1.3 of the Criminal Code of 1961 and similar damage to property located in the municipality or county in which the violation occurred. When possible and reasonable, the community service shall be performed in the minor's neighborhood. This order shall be in addition to any other order authorized by this Section except for an order to place

the minor in the custody of the Department of Juvenile Justice. For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(11) If the court determines that the offense was committed in furtherance of the criminal activities of an organized gang, as provided in subsection (10), and that the offense involved the operation or use of a motor vehicle or the use of a driver's license or permit, the court shall notify the Secretary of State of that determination and of the period for which the minor shall be denied driving privileges. If, at the time of the determination, the minor does not hold a driver's license or permit, the court shall provide that the minor shall not be issued a driver's license or permit until his or her 18th birthday. If the minor holds a driver's license or permit at the time of the determination, the court shall provide that the minor's driver's license or permit shall be revoked until his or her 21st birthday, or until a later date or occurrence determined by the court. If the minor holds a driver's license at the time of the determination, the court may direct the Secretary of State to issue the minor a judicial driving permit, also known as a JDP. The JDP shall be subject to the same terms as a JDP issued under Section 6-206.1 of the Illinois Vehicle Code, except that the court may direct that the JDP be effective immediately.

(12) If a minor is found to be guilty of a violation of

subsection (a-7) of Section 1 of the Prevention of Tobacco Use by Minors Act, the court may, in its discretion, and upon recommendation by the State's Attorney, order that minor and his or her parents or legal guardian to attend a smoker's education or youth diversion program as defined in that Act if that program is available in the jurisdiction where the offender resides. Attendance at a smoker's education or youth diversion program shall be time-credited against any community service time imposed for any first violation of subsection (a-7) of Section 1 of that Act. In addition to any other penalty that the court may impose for a violation of subsection (a-7) of Section 1 of that Act, the court, upon request by the State's Attorney, may in its discretion require the offender to remit a fee for his or her attendance at a smoker's education or youth diversion program.

For purposes of this Section, "smoker's education program" or "youth diversion program" includes, but is not limited to, a seminar designed to educate a person on the physical and psychological effects of smoking tobacco products and the health consequences of smoking tobacco products that can be conducted with a locality's youth diversion program.

In addition to any other penalty that the court may impose under this subsection (12):

(a) If a minor violates subsection (a-7) of Section 1 of the Prevention of Tobacco Use by Minors Act, the court may impose a sentence of 15 hours of community service or a

fine of \$25 for a first violation.

(b) A second violation by a minor of subsection (a-7) of Section 1 of that Act that occurs within 12 months after the first violation is punishable by a fine of \$50 and 25 hours of community service.

(c) A third or subsequent violation by a minor of subsection (a-7) of Section 1 of that Act that occurs within 12 months after the first violation is punishable by a \$100 fine and 30 hours of community service.

(d) Any second or subsequent violation not within the 12-month time period after the first violation is punishable as provided for a first violation.

(Source: P.A. 94-556, eff. 9-11-05; 94-696, eff. 6-1-06; 95-337, eff. 6-1-08; 95-642, eff. 6-1-08; 95-844, eff. 8-15-08; 95-876, eff. 8-21-08.)

Section 15. The Sale of Tobacco to Minors Act is amended by changing the title of the Act and Sections 0.01, 1, and 2 as follows:

(720 ILCS 675/Act title)

An Act to prohibit minors from buying, ~~or~~ selling, or possessing tobacco in any of its forms, to prohibit selling, giving or furnishing tobacco, in any of its forms, to minors, and providing penalties therefor.

(720 ILCS 675/0.01) (from Ch. 23, par. 2356.9)

Sec. 0.01. Short title. This Act may be cited as the Prevention of Tobacco Use by ~~Sale of Tobacco to~~ Minors Act.

(Source: P.A. 86-1324.)

(720 ILCS 675/1) (from Ch. 23, par. 2357)

Sec. 1. Prohibition on sale to and possession of tobacco by ~~to~~ minors; use of identification cards; vending machines; lunch wagons; out-of-package sales.

(a) No minor under 18 years of age shall buy any cigar, cigarette, smokeless tobacco or tobacco in any of its forms. No person shall sell, buy for, distribute samples of or furnish any cigar, cigarette, smokeless tobacco or tobacco in any of its forms, to any minor under 18 years of age.

(a-5) No minor under 16 years of age may sell any cigar, cigarette, smokeless tobacco, or tobacco in any of its forms at a retail establishment selling tobacco products. This subsection does not apply to a sales clerk in a family-owned business which can prove that the sales clerk is in fact a son or daughter of the owner.

(a-6) No minor under 18 years of age in the furtherance or facilitation of obtaining any cigar, cigarette, smokeless tobacco, or tobacco in any of its forms shall display or use a false or forged identification card or transfer, alter, or deface an identification card.

(a-7) No minor under 18 years of age shall possess any

cigar, cigarette, smokeless tobacco, or tobacco in any of its forms.

For the purpose of this Section, "smokeless tobacco" means any tobacco products that are suitable for dipping or chewing.

(b) Tobacco products listed in this Section ~~above~~ may be sold through a vending machine only if such tobacco products are not placed together with any non-tobacco product, other than matches, in the vending machine and the vending machine is in any of the following locations:

(1) (Blank).

(2) Places to which minors under 18 years of age are not permitted access.

(3) Places where alcoholic beverages are sold and consumed on the premises and vending machine operation is under the direct supervision of the owner or manager.

(4) (Blank).

(5) Places where the vending machine can only be operated by the owner or an employee over age 18 either directly or through a remote control device if the device is inaccessible to all customers.

(c) The sale or distribution at no charge of cigarettes from a lunch wagon engaging in any sales activity within 1,000 feet of any public or private elementary or secondary school grounds is prohibited.

For the purpose of this Section, "lunch wagon" means a mobile vehicle designed and constructed to transport food and

from which food is sold to the general public.

(d) The sale or distribution by any person of a tobacco product in this Section ~~listed above~~, including but not limited to a single or loose cigarette, that is not contained within a sealed container, pack, or package as provided by the manufacturer, which container, pack, or package bears the health warning required by federal law, is prohibited.

(e) It is not a violation of this Act for a person under 18 years of age to purchase or possess a cigar, cigarette, smokeless tobacco or tobacco in any of its forms if the person under the age of 18 purchases or is given the cigar, cigarette, smokeless tobacco or tobacco in any of its forms from a retail seller of tobacco products or an employee of the retail seller pursuant to a plan or action to investigate, patrol, or otherwise conduct a "sting operation" or enforcement action against a retail seller of tobacco products or a person employed by the retail seller of tobacco products or on any premises authorized to sell tobacco products to determine if tobacco products are being sold or given to persons under 18 years of age if the "sting operation" or enforcement action is approved by the Department of State Police, the county sheriff, a municipal police department, the Department of Public Health, or a local health department.

(Source: P.A. 95-905, eff. 1-1-09.)

(720 ILCS 675/2) (from Ch. 23, par. 2358)

Sec. 2. Penalties.

(a) Any person who violates subsection (a), (a-5), or (a-6) of Section 1 any provision of this Act is guilty of a petty offense and for the first offense shall be fined \$200, \$400 for the second offense in a 12-month period, and \$600 for the third or any subsequent offense in a 12-month period.

(b) If a minor violates subsection (a-7) of Section 1 he or she is guilty of a petty offense and the court may impose a sentence of 15 hours of community service or a fine of \$25 for a first violation.

(c) A second violation by a minor of subsection (a-7) of Section 1 that occurs within 12 months after the first violation is punishable by a fine of \$50 and 25 hours of community service.

(d) A third or subsequent violation by a minor of subsection (a-7) of Section 1 that occurs within 12 months after the first violation is punishable by a \$100 fine and 30 hours of community service.

(e) Any second or subsequent violation not within the 12-month time period after the first violation is punishable as provided for a first violation.

(f) If a minor is convicted of or placed on supervision for a violation of subsection (a-7) of Section 1, the court may, in its discretion, and upon recommendation by the State's Attorney, order that minor and his or her parents or legal guardian to attend a smoker's education or youth diversion

program if that program is available in the jurisdiction where the offender resides. Attendance at a smoker's education or youth diversion program shall be time-credited against any community service time imposed for any first violation of subsection (a-7) of Section 1. In addition to any other penalty that the court may impose for a violation of subsection (a-7) of Section 1, the court, upon request by the State's Attorney, may in its discretion require the offender to remit a fee for his or her attendance at a smoker's education or youth diversion program.

(g) For purposes of this Section, "smoker's education program" or "youth diversion program" includes, but is not limited to, a seminar designed to educate a person on the physical and psychological effects of smoking tobacco products and the health consequences of smoking tobacco products that can be conducted with a locality's youth diversion program.

(h) All moneys collected as fines for violations of subsection (a), (a-5), (a-6), or (a-7) of Section 1 shall be distributed in the following manner:

(1) one-half of each fine shall be distributed to the unit of local government or other entity that successfully prosecuted the offender; and

(2) one-half shall be remitted to the State to be used for enforcing this Act. ~~One-half of each fine collected under this Section shall be distributed to the unit of local government or other entity that successfully~~

~~prosecuted the offender and one half shall be remitted to the State to be used for enforcing this Act.~~

(Source: P.A. 88-418.)

Section 20. The Display of Tobacco Products Act is amended by changing Section 15 as follows:

(720 ILCS 677/15)

Sec. 15. Vending machines. This Act does not prohibit the sale of tobacco products from vending machines if the location of the vending machines are in compliance with the provisions of Section 1 of the Prevention of Tobacco Use by Sale of Tobacco to Minors Act.

(Source: P.A. 93-886, eff. 1-1-05.)

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