

1 AN ACT concerning revenue.

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

4 Section 5. The Use Tax Act is amended by changing Section
5 11 as follows:

6 (35 ILCS 105/11) (from Ch. 120, par. 439.11)

7 Sec. 11. Every retailer required or authorized to collect
8 taxes hereunder and every person using in this State tangible
9 personal property purchased at retail from a retailer on or
10 after the effective date hereof shall keep such records,
11 receipts, invoices and other pertinent books, documents,
12 memoranda and papers as the Department shall require, in such
13 form as the Department shall require. The Department may adopt
14 rules that establish requirements, including record forms and
15 formats, for records required to be kept and maintained by
16 taxpayers. For purposes of this Section, "records" means all
17 data maintained by the taxpayer, including data on paper,
18 microfilm, microfiche or any type of machine-sensible data
19 compilation. For the purpose of administering and enforcing the
20 provisions hereof, the Department, or any officer or employee
21 of the Department designated, in writing, by the Director
22 thereof, may hold investigations and hearings concerning any
23 matters covered herein and may examine any books, papers,

1 records, documents or memoranda of any retailer or purchaser
2 bearing upon the sales or purchases of tangible personal
3 property, the privilege of using which is taxed hereunder, and
4 may require the attendance of such person or any officer or
5 employee of such person, or of any person having knowledge of
6 the facts, and may take testimony and require proof for its
7 information.

8 Any person who fails to keep books and records or fails to
9 produce books and records for examination, as required by this
10 Section and the rules adopted by the Department, is liable to
11 pay to the Department, for deposit into the Tax Compliance and
12 Administration Fund, a penalty of \$1,000 for the first failure
13 to keep books and records or produce books and records for
14 examination and a penalty of \$3,000 for each subsequent failure
15 to keep books and records or produce books and records for
16 examination as required by this Section and the rules adopted
17 by the Department.

18 (Source: P.A. 88-480.)

19 Section 10. The Service Use Tax Act is amended by changing
20 Section 11 as follows:

21 (35 ILCS 110/11) (from Ch. 120, par. 439.41)

22 Sec. 11. Every serviceman required or authorized to collect
23 taxes hereunder and every user who is subject to the tax
24 imposed by this Act shall keep such records, receipts, invoices

1 and other pertinent books, documents, memoranda and papers as
2 the Department shall require, in such form as the Department
3 shall require. The Department may adopt rules that establish
4 requirements, including record forms and formats, for records
5 required to be kept and maintained by taxpayers. For purposes
6 of this Section, "records" means all data maintained by the
7 taxpayer, including data on paper, microfilm, microfiche or any
8 type of machine-sensible data compilation. For the purpose of
9 administering and enforcing the provisions hereof, the
10 Department, or any officer or employee of the Department
11 designated, in writing, by the Director thereof, may hold
12 investigations and hearings concerning any matters covered
13 herein and not otherwise delegated to the Illinois Independent
14 Tax Tribunal and may examine any relevant books, papers,
15 records, documents or memoranda of any serviceman or any
16 taxable purchaser for use hereunder, and may require the
17 attendance of such person or any officer or employee of such
18 person, or of any person having knowledge of the facts, and may
19 take testimony and require proof for its information.

20 Any person who fails to keep books and records or fails to
21 produce books and records for examination, as required by this
22 Section and the rules adopted by the Department, is liable to
23 pay to the Department, for deposit into the Tax Compliance and
24 Administration Fund, a penalty of \$1,000 for the first failure
25 to keep books and records or produce books and records for
26 examination and a penalty of \$3,000 for each subsequent failure

1 to keep books and records or produce books and records for
2 examination as required by this Section and the rules adopted
3 by the Department.

4 (Source: P.A. 97-1129, eff. 8-28-12.)

5 Section 15. The Service Occupation Tax Act is amended by
6 changing Section 11 as follows:

7 (35 ILCS 115/11) (from Ch. 120, par. 439.111)

8 Sec. 11. Every supplier required or authorized to collect
9 taxes hereunder and every serviceman making sales of service in
10 this State on or after the effective date hereof shall keep
11 such records, receipts, invoices and other pertinent books,
12 documents, memoranda and papers as the Department shall
13 require, in such form as the Department shall require. The
14 Department may adopt rules that establish requirements,
15 including record forms and formats, for records required to be
16 kept and maintained by taxpayers. For purposes of this Section,
17 "records" means all data maintained by the taxpayer, including
18 data on paper, microfilm, microfiche or any type of
19 machine-sensible data compilation. For the purpose of
20 administering and enforcing the provisions hereof, the
21 Department, or any officer or employee of the Department
22 designated, in writing, by the Director thereof, may hold
23 investigations and hearings not otherwise delegated to the
24 Illinois Independent Tax Tribunal concerning any matters

1 covered herein and may examine any books, papers, records,
2 documents or memoranda of any supplier or serviceman bearing
3 upon the sales of services or the sales of tangible personal
4 property to servicemen, and may require the attendance of such
5 person or any officer or employee of such person, or of any
6 person having knowledge of the facts, and may take testimony
7 and require proof for its information.

8 Any person who fails to keep books and records or fails to
9 produce books and records for examination, as required by this
10 Section and the rules adopted by the Department, is liable to
11 pay to the Department, for deposit into the Tax Compliance and
12 Administration Fund, a penalty of \$1,000 for the first failure
13 to keep books and records or produce books and records for
14 examination and a penalty of \$3,000 for each subsequent failure
15 to keep books and records or produce books and records for
16 examination as required by this Section and the rules adopted
17 by the Department.

18 (Source: P.A. 97-1129, eff. 8-28-12.)

19 Section 20. The Retailers' Occupation Tax Act is amended by
20 changing Section 7 as follows:

21 (35 ILCS 120/7) (from Ch. 120, par. 446)

22 Sec. 7. Every person engaged in the business of selling
23 tangible personal property at retail in this State shall keep
24 records and books of all sales of tangible personal property,

1 together with invoices, bills of lading, sales records, copies
2 of bills of sale, inventories prepared as of December 31 of
3 each year or otherwise annually as has been the custom in the
4 specific trade and other pertinent papers and documents. Every
5 person who is engaged in the business of selling tangible
6 personal property at retail in this State and who, in
7 connection with such business, also engages in other activities
8 (including, but not limited to, engaging in a service
9 occupation) shall keep such additional records and books of all
10 such activities as will accurately reflect the character and
11 scope of such activities and the amount of receipts realized
12 therefrom. The Department may adopt rules that establish
13 requirements, including record forms and formats, for records
14 required to be kept and maintained by taxpayers. For purposes
15 of this Section, "records" means all data maintained by the
16 taxpayer, including data on paper, microfilm, microfiche or any
17 type of machine-sensible data compilation.

18 All books and records and other papers and documents which
19 are required by this Act to be kept shall be kept in the
20 English language and shall, at all times during business hours
21 of the day, be subject to inspection by the Department or its
22 duly authorized agents and employees.

23 To support deductions made on the tax return form, or
24 authorized under this Act, on account of receipts from isolated
25 or occasional sales of tangible personal property, on account
26 of receipts from sales of tangible personal property for

1 resale, on account of receipts from sales to governmental
2 bodies or other exempted types of purchasers, on account of
3 receipts from sales of tangible personal property in interstate
4 commerce, and on account of receipts from any other kind of
5 transaction that is not taxable under this Act, entries in any
6 books, records or other pertinent papers or documents of the
7 taxpayer in relation thereto shall be in detail sufficient to
8 show the name and address of the taxpayer's customer in each
9 such transaction, the character of every such transaction, the
10 date of every such transaction, the amount of receipts realized
11 from every such transaction and such other information as may
12 be necessary to establish the non-taxable character of such
13 transaction under this Act.

14 Except in the case of a sale to a purchaser who will always
15 resell and deliver the property to his customers outside
16 Illinois, anyone claiming that he has made a nontaxable sale
17 for resale in some form as tangible personal property shall
18 also keep a record of the purchaser's registration number or
19 resale number with the Department.

20 It shall be presumed that all sales of tangible personal
21 property are subject to tax under this Act until the contrary
22 is established, and the burden of proving that a transaction is
23 not taxable hereunder shall be upon the person who would be
24 required to remit the tax to the Department if such transaction
25 is taxable. In the course of any audit or investigation or
26 hearing by the Department with reference to a given taxpayer,

1 if the Department finds that the taxpayer lacks documentary
2 evidence needed to support the taxpayer's claim to exemption
3 from tax hereunder, the Department is authorized to notify the
4 taxpayer in writing to produce such evidence, and the taxpayer
5 shall have 60 days subject to the right in the Department to
6 extend this period either on request for good cause shown or on
7 its own motion from the date when such notice is sent to the
8 taxpayer by certified or registered mail (or delivered to the
9 taxpayer if the notice is served personally) in which to obtain
10 and produce such evidence for the Department's inspection,
11 failing which the matter shall be closed, and the transaction
12 shall be conclusively presumed to be taxable hereunder.

13 Books and records and other papers reflecting gross
14 receipts received during any period with respect to which the
15 Department is authorized to issue notices of tax liability as
16 provided by Sections 4 and 5 of this Act shall be preserved
17 until the expiration of such period unless the Department, in
18 writing, shall authorize their destruction or disposal prior to
19 such expiration.

20 Any person who fails to keep books and records or fails to
21 produce books and records for examination, as required by this
22 Section and the rules adopted by the Department, is liable to
23 pay to the Department, for deposit into the Tax Compliance and
24 Administration Fund, a penalty of \$1,000 for the first failure
25 to keep books and records or produce books and records for
26 examination and a penalty of \$3,000 for each subsequent failure

1 to keep books and records or produce books and records for
2 examination as required by this Section and the rules adopted
3 by the Department.

4 (Source: P.A. 88-480.)

5 Section 25. The Cigarette Tax Act is amended by changing
6 Sections 12, 13, 14, 15, 18b, and 18c and by adding Sections
7 13a, 15a, and 18d as follows:

8 (35 ILCS 130/12) (from Ch. 120, par. 453.12)

9 Sec. 12. Every distributor or secondary distributor who is
10 required to procure a license under this Act and who purchases
11 cigarettes for shipment into Illinois from a point outside this
12 State shall procure invoices in duplicate covering each such
13 shipment, shall make the invoices available for inspection upon
14 demand by a duly authorized employee of the Department, and
15 shall, if the Department so requires, furnish one copy of each
16 such invoice to the Department at the time of filing a return
17 or a report required by this Act.

18 (Source: P.A. 96-1027, eff. 7-12-10.)

19 (35 ILCS 130/13) (from Ch. 120, par. 453.13)

20 Sec. 13. Whenever any original package of cigarettes is
21 found in the place of business or in the possession of any
22 person who is not a licensed distributor under this Act without
23 proper stamps affixed thereto, or an authorized substitute

1 therefor imprinted thereon, underneath the sealed transparent
2 wrapper of such original package, as required by this Act, the
3 prima facie presumption shall arise that such original package
4 of cigarettes is kept therein or is held by such person in
5 violation of the provisions of this Act. If a presumption is
6 raised, the Department may, in addition to the penalties
7 imposed by Sections 18b and 18c of this Act and any other civil
8 or criminal penalties provided for in this Act, assess tax,
9 penalty, and interest on the original packages of cigarettes.

10 (Source: Laws 1953, p. 255.)

11 (35 ILCS 130/13a new)

12 Sec. 13a. Contraband cigarettes. Whenever a retailer
13 obtains original packages of cigarettes from an unlicensed
14 in-state or out-of-state distributor or person, a prima facie
15 presumption shall arise that such original packages of
16 cigarettes are contraband and are possessed by such retailer or
17 were possessed by such retailer in violation of the provisions
18 of this Act and subject to the penalties imposed by Sections
19 18b and 18c of this Act. Invoices or other documents kept in
20 the normal course of business in the possession of a retailer
21 reflecting purchases of original packages of cigarettes from an
22 unlicensed in-state or out-of-state distributor or person or
23 invoices or other documents kept in the normal course of
24 business obtained by the Department from an in-state or
25 out-of-state distributor or person, are sufficient to raise the

1 presumption that such original packages of cigarettes are
2 contraband and are possessed, or were possessed, by such
3 retailer in violation of the provisions of this Act and the
4 retailer is subject to the penalties imposed by Sections 18b
5 and 18c. If a presumption is raised, the Department may, in
6 addition to the penalties imposed by Sections 18b and 18c and
7 any other civil or criminal penalties provided for in this Act,
8 assess tax, penalty, and interest on the original packages of
9 cigarettes.

10 (35 ILCS 130/14) (from Ch. 120, par. 453.14)

11 Sec. 14. Any person required by this Act to keep records of
12 any kind whatsoever, who shall fail to keep the records so
13 required or who shall falsify such records, shall be guilty of
14 a Class 4 felony. If a person fails to produce the records for
15 inspection by the Department upon request, a prima facie
16 presumption shall arise that the person has failed to keep the
17 records so required. A person who is unable to rebut this
18 presumption is in violation of this Act and is subject to the
19 penalties provided in this Section.

20 (Source: P.A. 83-1428.)

21 (35 ILCS 130/15) (from Ch. 120, par. 453.15)

22 Sec. 15. Any person who shall fail to safely maintain and
23 preserve the records required by Sections Section 11, and
24 Section 11a, 11b, and 11c of this Act for the period of 3 three

1 years, as required therein, in such manner as to insure
2 permanency and accessibility for inspection by the Department,
3 shall be guilty of a business offense and may be fined up to
4 \$5,000.

5 (Source: P.A. 96-1027, eff. 7-12-10.)

6 (35 ILCS 130/15a new)

7 Sec. 15a. Failure to keep and produce books and records.

8 Any person who fails to keep books and records or fails to
9 produce books and records for inspection, as required by
10 Sections 11, 11a, 11b, and 11c of this Act, is liable to pay to
11 the Department, for deposit in the Tax Compliance and
12 Administration Fund, a penalty of \$1,000 for the first failure
13 to keep books and records or failure to produce books and
14 records for inspection, as required by Sections 11, 11a, 11b,
15 and 11c, and \$3,000 for each subsequent failure to keep books
16 and records or failure to produce books and records for
17 inspection, as required by Sections 11, 11a, 11b, and 11c. The
18 Department may adopt rules to administer the penalties under
19 this Section.

20 (35 ILCS 130/18b) (from Ch. 120, par. 453.18b)

21 Sec. 18b. Possession of more than 100 original packages of
22 contraband cigarettes; penalty. With the exception of licensed
23 distributors and transporters, as defined in Section 9c of this
24 Act, possessing unstamped original packages of cigarettes, and

1 licensed distributors possessing original packages of
2 cigarettes that bear a tax stamp of another state or taxing
3 jurisdiction, anyone possessing or having possessed contraband
4 cigarettes contained in original packages is liable to pay, to
5 the Department for deposit in the Tax Compliance and
6 Administration Fund, a penalty of \$25 for each such package of
7 cigarettes in excess of 100 packages, unless reasonable cause
8 can be established by the person upon whom the penalty is
9 imposed. This penalty is in addition to the taxes imposed by
10 this Act. Reasonable cause shall be determined in each
11 situation in accordance with rules adopted by the Department.
12 The provisions of the Uniform Penalty and Interest Act do not
13 apply to this Section.

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

15 (35 ILCS 130/18c)

16 Sec. 18c. Possession of not less than 10 and not more than
17 100 original packages of contraband cigarettes; penalty. With
18 the exception of licensed distributors and transporters, as
19 defined in Section 9c of this Act, possessing unstamped
20 original packages of cigarettes, and licensed distributors
21 possessing original packages of cigarettes that bear a tax
22 stamp of another state or taxing jurisdiction, anyone
23 possessing or having possessed not less than 10 and not more
24 than 100 packages of contraband cigarettes contained in
25 original packages is liable to pay to the Department, for

1 deposit into the Tax Compliance and Administration Fund, a
2 penalty of \$15 ~~\$10~~ for each such package of cigarettes, unless
3 reasonable cause can be established by the person upon whom the
4 penalty is imposed. Reasonable cause shall be determined in
5 each situation in accordance with rules adopted by the
6 Department. The provisions of the Uniform Penalty and Interest
7 Act do not apply to this Section.

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

9 (35 ILCS 130/18d new)

10 Sec. 18d. Cigarette package sizes; sale of individual or
11 loose cigarettes prohibited. Cigarettes may only be sold in
12 packages of 20 or 25 cigarettes. The sale of individual or
13 loose cigarettes is prohibited. Any person who violates this
14 Section of the Act is liable to pay to the Department, for
15 deposit in the Tax Compliance and Administration Fund, a
16 penalty of \$1,000 for the first violation and \$3,000 for any
17 subsequent violation. Any person who violates this Section
18 shall be guilty of a Class 4 felony. The Department may adopt
19 rules to administer the penalties under this Section.

20 Section 30. The Cigarette Use Tax Act is amended by
21 changing Sections 12, 22, 23, 25a, and 25b and by adding
22 Sections 8a, 23a, and 25c as follows:

23 (35 ILCS 135/8a new)

1 Sec. 8a. Contraband cigarettes. Whenever any person
2 obtains original packages of cigarettes from an unlicensed
3 in-state or out-of-state distributor or person, a prima facie
4 presumption shall arise that such original packages of
5 cigarettes are contraband and are possessed or were possessed
6 by such person in violation of the provisions of this Act and
7 subject to the penalties imposed by Sections 25a and 25b.
8 Invoices or other documents kept in the normal course of
9 business in the possession of a person reflecting purchases of
10 original packages of cigarettes from an unlicensed in-state or
11 out-of-state distributor or person or invoices or other
12 documents kept in the normal course of business obtained by the
13 Department from an in-state or out-of-state distributor or
14 person, are sufficient to raise the presumption that such
15 original packages of cigarettes are contraband and are
16 possessed, or were possessed, by such person in violation of
17 the provisions of this Act and the person is subject to the
18 penalties imposed by Sections 25a and 25b. If a presumption is
19 raised, the Department may, in addition to the penalties
20 imposed by Sections 25a and 25b and any other civil or criminal
21 penalties provided for in this Act, assess tax, penalty, and
22 interest on the original packages of cigarettes.

23 (35 ILCS 135/12) (from Ch. 120, par. 453.42)

24 Sec. 12. Declaration of possession of cigarettes on which
25 tax not paid.

1 (a) When cigarettes are acquired for use in this State by a
2 person (including a distributor as well as any other person),
3 who did not pay the tax herein imposed to a distributor, the
4 person, within 30 days after acquiring the cigarettes, shall
5 file with the Department a return declaring the possession of
6 the cigarettes and shall transmit with the return to the
7 Department the tax imposed by this Act.

8 (b) On receipt of the return and payment of the tax as
9 required by paragraph (a), the Department may furnish the
10 person with a suitable tax stamp to be affixed to the package
11 of cigarettes upon which the tax has been paid if the
12 Department determines that the cigarettes still exist.

13 (c) The return referred to in paragraph (a) shall contain
14 the name and address of the person possessing the cigarettes
15 involved, the location of the cigarettes and the quantity,
16 brand name, place, and date of the acquisition of the
17 cigarettes.

18 (d) Nothing in this Section shall permit a secondary
19 distributor to purchase unstamped original packages of
20 cigarettes or to purchase original packages of cigarettes from
21 a person other than a licensed distributor.

22 (e) Any distributor who violates this Section is liable to
23 pay to the Department, for deposit in the Tax Compliance and
24 Administration Fund, a penalty of \$1,000 for the first
25 violation and \$3,000 for any subsequent violation. The
26 Department may adopt rules to administer the penalties under

1 this Section. The Department may, in addition to the penalties
2 imposed by this Section, and any other civil or criminal
3 penalties provided for in this Act, assess tax, penalty, and
4 interest on the original packages of cigarettes.

5 (Source: P.A. 96-1027, eff. 7-12-10.)

6 (35 ILCS 135/22) (from Ch. 120, par. 453.52)

7 Sec. 22.

8 Any person required by this Act to maintain or keep records
9 of any kind whatsoever, who shall fail to keep the records so
10 required or who shall falsify such records, shall be guilty of
11 a Class 4 felony ~~A misdemeanor~~. If a person fails to produce
12 the records for inspection by the Department upon request, a
13 prima facie presumption shall arise that the person has failed
14 to keep the records so required. A person who is unable to
15 rebut this presumption is in violation of this Act and is
16 subject to the penalties provided in this Section.

17 This Section shall not apply if the violation in a
18 particular case also constitutes a criminal violation of the
19 Cigarette Tax Act.

20 (Source: P.A. 77-2229.)

21 (35 ILCS 135/23) (from Ch. 120, par. 453.53)

22 Sec. 23. Any person who shall fail to safely preserve the
23 records required by Section 15 and Section 15a of this Act for
24 the period of three (3) years, as required therein, in such

1 manner as to insure permanency and accessibility for inspection
2 by the Department, shall be guilty of a business offense and
3 may be fined up to \$5,000 ~~One Thousand Dollars (\$1000)~~.

4 This Section shall not apply if the violation in a
5 particular case also constitutes a criminal violation of the
6 Cigarette Tax Act.

7 (Source: P.A. 96-1027, eff. 7-12-10.)

8 (35 ILCS 135/23a new)

9 Sec. 23a. Failure to keep and produce books and records.

10 Any person who fails to keep books and records or fails to
11 produce books and records for inspection, as required by
12 Sections 15 and 15a of this Act, is liable to pay to the
13 Department, for deposit in the Tax Compliance and
14 Administration Fund, a penalty of \$1,000 for the first failure
15 to keep books and records or failure to produce books and
16 records for inspection, as required by Sections 15 and 15a, and
17 \$3,000 for each subsequent failure to keep books and records or
18 failure to produce books and records for inspection, as
19 required by Sections 15 and 15a. The Department may adopt rules
20 to administer the penalties under this Section.

21 (35 ILCS 135/25a) (from Ch. 120, par. 453.55a)

22 Sec. 25a. Possession of more than 100 original packages of
23 contraband cigarettes; penalty. With the exception of licensed
24 distributors or transporters, as defined in Section 9c of the

1 Cigarette Tax Act, possessing unstamped original packages of
2 cigarettes, and licensed distributors possessing original
3 packages of cigarettes that bear a tax stamp of another state
4 or taxing jurisdiction, anyone possessing or having possessed
5 more than 100 packages of contraband cigarettes contained in
6 original packages is liable to pay, to the Department for
7 deposit into the Tax Compliance and Administration Fund, a
8 penalty of \$25 for each such package of cigarettes in excess of
9 100 packages, unless reasonable cause can be established by the
10 person upon whom the penalty is imposed. Reasonable cause shall
11 be determined in each situation in accordance with rules
12 adopted by the Department. The provisions of the Uniform
13 Penalty and Interest Act do not apply to this Section.

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

15 (35 ILCS 135/25b)

16 Sec. 25b. Possession of not less than 10 and not more than
17 100 original packages not tax stamped or improperly tax
18 stamped; penalty. With the exception of licensed distributors
19 and transporters, as defined in Section 9c of the Cigarette Tax
20 Act, possessing unstamped packages of cigarettes, and licensed
21 distributors possessing original packages of cigarettes that
22 bear a tax stamp of another state or taxing jurisdiction,
23 anyone possessing or having possessed not less than 10 and not
24 more than 100 packages of contraband cigarettes contained in
25 original packages is liable to pay to the Department, for

1 deposit into the Tax Compliance and Administration Fund, a
2 penalty of \$20 for each such package of cigarettes, unless
3 reasonable cause can be established by the person upon whom the
4 penalty is imposed. Reasonable cause shall be determined in
5 each situation in accordance with rules adopted by the
6 Department. Any person who purchases and possesses a total of 9
7 or fewer original packages of unstamped cigarettes per month is
8 exempt from the penalties of this Section. The provisions of
9 the Uniform Penalty and Interest Act do not apply to this
10 Section.

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

12 (35 ILCS 135/25c new)

13 Sec. 25c. Cigarette package sizes; sale of individual or
14 loose cigarettes prohibited. Cigarettes may only be sold in
15 packages of 20 or 25 cigarettes. The sale of individual or
16 loose cigarettes is prohibited. Any person who violates this
17 Section is liable to pay to the Department, for deposit in the
18 Tax Compliance and Administration Fund, a penalty of \$1,000 for
19 the first violation and \$3,000 for any subsequent violation.
20 Any person who violates this Section shall be guilty of a Class
21 4 felony. This Section shall not apply if the violation in a
22 particular case also constitutes a violation of the Cigarette
23 Tax Act.

24 Section 35. The Tobacco Products Tax Act of 1995 is amended

1 by changing Sections 10-25, 10-35, 10-37, 10-40, and 10-50 and
2 by adding Sections 10-35a and 10-38 as follows:

3 (35 ILCS 143/10-25)

4 Sec. 10-25. License actions.

5 (a) The Department may, after notice and a hearing, revoke,
6 cancel, or suspend the license of any distributor or retailer
7 who violates any of the provisions of this Act, fails to keep
8 books and records as required under this Act, fails to make
9 books and records available for inspection upon demand by a
10 duly authorized employee of the Department, or violates a rule
11 or regulation of the Department for the administration and
12 enforcement of this Act. The notice shall specify the alleged
13 violation or violations upon which the revocation,
14 cancellation, or suspension proceeding is based.

15 (b) The Department may revoke, cancel, or suspend the
16 license of any distributor for a violation of the Tobacco
17 Product Manufacturers' Escrow Enforcement Act as provided in
18 Section 20 of that Act.

19 (c) If the retailer has a training program that facilitates
20 compliance with minimum-age tobacco laws, the Department shall
21 suspend for 3 days the license of that retailer for a fourth or
22 subsequent violation of the Prevention of Tobacco Use by Minors
23 and Sale and Distribution of Tobacco Products Act, as provided
24 in subsection (a) of Section 2 of that Act. For the purposes of
25 this Section, any violation of subsection (a) of Section 2 of

1 the Prevention of Tobacco Use by Minors and Sale and
2 Distribution of Tobacco Products Act occurring at the
3 retailer's licensed location, during a 24-month period, shall
4 be counted as a violation against the retailer.

5 If the retailer does not have a training program that
6 facilitates compliance with minimum-age tobacco laws, the
7 Department shall suspend for 3 days the license of that
8 retailer for a second violation of the Prevention of Tobacco
9 Use by Minors and Sale and Distribution of Tobacco Products
10 Act, as provided in subsection (a-5) of Section 2 of that Act.

11 If the retailer does not have a training program that
12 facilitates compliance with minimum-age tobacco laws, the
13 Department shall suspend for 7 days the license of that
14 retailer for a third violation of the Prevention of Tobacco Use
15 by Minors and Sale and Distribution of Tobacco Products Act, as
16 provided in subsection (a-5) of Section 2 of that Act.

17 If the retailer does not have a training program that
18 facilitates compliance with minimum-age tobacco laws, the
19 Department shall suspend for 30 days the license of a retailer
20 for a fourth or subsequent violation of the Prevention of
21 Tobacco Use by Minors and Sale and Distribution of Tobacco
22 Products Act, as provided in subsection (a-5) of Section 2 of
23 that Act.

24 A training program that facilitates compliance with
25 minimum-age tobacco laws must include at least the following
26 elements: (i) it must explain that only individuals displaying

1 valid identification demonstrating that they are 18 years of
2 age or older shall be eligible to purchase cigarettes or
3 tobacco products and (ii) it must explain where a clerk can
4 check identification for a date of birth. The training may be
5 conducted electronically. Each retailer that has a training
6 program shall require each employee who completes the training
7 program to sign a form attesting that the employee has received
8 and completed tobacco training. The form shall be kept in the
9 employee's file and may be used to provide proof of training.

10 (d) The Department may, by application to any circuit
11 court, obtain an injunction restraining any person who engages
12 in business as a distributor of tobacco products without a
13 license (either because his or her license has been revoked,
14 canceled, or suspended or because of a failure to obtain a
15 license in the first instance) from engaging in that business
16 until that person, as if that person were a new applicant for a
17 license, complies with all of the conditions, restrictions, and
18 requirements of Section 10-20 of this Act and qualifies for and
19 obtains a license. Refusal or neglect to obey the order of the
20 court may result in punishment for contempt.

21 (Source: P.A. 98-1055, eff. 1-1-16; 99-192, eff. 1-1-16.)

22 (35 ILCS 143/10-35)

23 Sec. 10-35. Record keeping.

24 (a) Every distributor, as defined in Section 10-5, shall
25 keep complete and accurate records of tobacco products held,

1 purchased, manufactured, brought in or caused to be brought in
2 from without the State, and tobacco products sold, or otherwise
3 disposed of, and shall preserve and keep all invoices, bills of
4 lading, sales records, and copies of bills of sale, the
5 wholesale price for tobacco products sold or otherwise disposed
6 of, an inventory of tobacco products prepared as of December 31
7 of each year or as of the last day of the distributor's fiscal
8 year if he or she files federal income tax returns on the basis
9 of a fiscal year, and other pertinent papers and documents
10 relating to the manufacture, purchase, sale, or disposition of
11 tobacco products. Every sales invoice issued by a licensed
12 distributor to a retailer in this State shall contain the
13 distributor's Tobacco Products License number unless the
14 distributor has been granted a waiver by the Department in
15 response to a written request in cases where (i) the
16 distributor sells little cigars or other tobacco products only
17 to licensed retailers that are wholly-owned by the distributor
18 or owned by a wholly-owned subsidiary of the distributor; (ii)
19 the licensed retailer obtains little cigars or other tobacco
20 products only from the distributor requesting the waiver; and
21 (iii) the distributor affixes the tax stamps to the original
22 packages of little cigars or has or will pay the tax on the
23 other tobacco products sold to the licensed retailer. The
24 distributor shall file a written request with the Department,
25 and, if the Department determines that the distributor meets
26 the conditions for a waiver, the Department shall grant the

1 waiver.

2 (b) Every retailer, as defined in Section 10-5, whether or
3 not the retailer has obtained a retailer's license pursuant to
4 Section 4g, shall keep complete and accurate records of tobacco
5 products held, purchased, sold, or otherwise disposed of, and
6 shall preserve and keep all invoices, bills of lading, sales
7 records, and copies of bills of sale, returns and other
8 pertinent papers and documents relating to the purchase, sale,
9 or disposition of tobacco products. Such records need not be
10 maintained on the licensed premises, but must be maintained in
11 the State of Illinois; however, if access is available
12 electronically, the records may be maintained out of state.
13 However, all original invoices or copies thereof covering
14 purchases of tobacco products must be retained on the licensed
15 premises for a period of 90 days after such purchase, unless
16 the Department has granted a waiver in response to a written
17 request in cases where records are kept at a central business
18 location within the State of Illinois or in cases where records
19 that are available electronically are maintained out of state.
20 The Department shall adopt rules regarding the eligibility for
21 a waiver, revocation of a waiver, and requirements and
22 standards for maintenance and accessibility of records located
23 at a central location out-of-State pursuant to a waiver
24 provided under this Section.

25 (c) Books, records, papers, and documents that are required
26 by this Act to be kept shall, at all times during the usual

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

7 (Source: P.A. 98-1055, eff. 1-1-16; 99-192, eff. 1-1-16.)

8 (35 ILCS 143/10-35a new)

9 Sec. 10-35a. Failure to keep and produce books and records.

10 Any person who fails to keep books and records or fails to
11 produce books and records for inspection, as required by
12 Section 10-35, is liable to pay to the Department, for deposit
13 in the Tax Compliance and Administration Fund, a penalty of
14 \$1,000 for the first failure to keep books and records or
15 failure to produce books and records for inspection, as
16 required by Section 10-35, and \$3,000 for each subsequent
17 failure to keep books and records or failure to produce books
18 and records for inspection, as required by Section 10-35. The
19 Department may adopt rules to administer the penalties under
20 this Section.

21 (35 ILCS 143/10-37)

22 Sec. 10-37. Proof of payment of tax imposed by this Act.
23 Every licensed distributor of tobacco products in this State is
24 required to show proof of the tax having been paid as required

1 by this Act by displaying its Tobacco Products License number
2 on every sales invoice issued to a retailer in this State. No
3 retailer shall possess tobacco products without either a proper
4 invoice indicating that the tobacco products tax was paid by a
5 distributor for the tobacco products in the retailer's
6 possession or other proof that the tax was paid by the retailer
7 if it has purchased tobacco products on which tax has not been
8 paid as required by this Act. Failure to comply with the
9 provisions of this paragraph may be grounds for revocation of a
10 distributor's or retailer's license in accordance with Section
11 10-25 of this Act or Section 6 of the Cigarette Tax Act. In
12 addition, the Department may impose a civil penalty not to
13 exceed \$1,000 for the first violation and \$3,000 for each
14 subsequent violation, which shall be deposited into the Tax
15 Compliance and Administration Fund.

16 (Source: P.A. 98-1055, eff. 1-1-16.)

17 (35 ILCS 143/10-38 new)

18 Sec. 10-38. Presumption for out-of-state or unlicensed
19 distributors. Whenever any person obtains tobacco products
20 from an unlicensed in-state or out-of-state distributor or
21 person, a prima facie presumption shall arise that the tax
22 imposed by this Act on such tobacco products has not been paid
23 in violation of this Act. Invoices or other documents kept in
24 the normal course of business in the possession of a person
25 reflecting purchases of tobacco products from an unlicensed

1 in-state or out-of-state distributor or person or invoices or
2 other documents kept in the normal course of business obtained
3 by the Department from in-state or out-of-state distributors or
4 persons, are sufficient to raise the presumption that the tax
5 imposed by this Act has not been paid. If a presumption is
6 raised, the Department may assess tax, penalty, and interest on
7 the tobacco products. In addition, any person who violates this
8 Section is liable to pay to the Department, for deposit in the
9 Tax Compliance and Administration Fund, a penalty of \$1,000 for
10 the first violation and \$3,000 for any subsequent violation.
11 The Department may adopt rules to administer the penalties
12 under this Section.

13 (35 ILCS 143/10-40)

14 Sec. 10-40. Invoices. Every distributor or other person who
15 purchases tobacco products for resale for shipment into
16 Illinois from a point outside Illinois shall procure invoices
17 in duplicate covering each shipment and shall make the invoices
18 available for inspection upon demand by a duly authorized
19 employee of the Department, and shall, if the Department so
20 requires, furnish one copy of each invoice to the Department at
21 the time of filing the return required by this Act.

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

23 (35 ILCS 143/10-50)

24 Sec. 10-50. Violations and penalties. When the amount due

1 is under \$300, any distributor who fails to file a return,
2 willfully fails or refuses to make any payment to the
3 Department of the tax imposed by this Act, or files a
4 fraudulent return, or any officer or agent of a corporation
5 engaged in the business of distributing tobacco products to
6 retailers and consumers located in this State who signs a
7 fraudulent return filed on behalf of the corporation, or any
8 accountant or other agent who knowingly enters false
9 information on the return of any taxpayer under this Act is
10 guilty of a Class 4 felony.

11 Any person who violates any provision of Section 10-20,
12 10-21, or 10-22 of this Act, fails to keep books and records as
13 required under this Act, or willfully violates a rule or
14 regulation of the Department for the administration and
15 enforcement of this Act is guilty of a Class 4 felony. A person
16 commits a separate offense on each day that he or she engages
17 in business in violation of Section 10-20, 10-21, or 10-22 of
18 this Act. If a person fails to produce the books and records
19 for inspection by the Department upon request, a prima facie
20 presumption shall arise that the person has failed to keep
21 books and records as required under this Act. A person who is
22 unable to rebut this presumption is in violation of this Act
23 and is subject to the penalties provided in this Section.

24 When the amount due is under \$300, any person who accepts
25 money that is due to the Department under this Act from a
26 taxpayer for the purpose of acting as the taxpayer's agent to

1 make the payment to the Department, but who fails to remit the
2 payment to the Department when due, is guilty of a Class 4
3 felony.

4 Any person who violates any provision of Sections 10-20,
5 10-21 and 10-22 of this Act, fails to keep books and records as
6 required under this Act, or willfully violates a rule or
7 regulation of the Department for the administration and
8 enforcement of this Act is guilty of a business offense and may
9 be fined up to \$5,000. If a person fails to produce books and
10 records for inspection by the Department upon request, a prima
11 facie presumption shall arise that the person has failed to
12 keep books and records as required under this Act. A person who
13 is unable to rebut this presumption is in violation of this Act
14 and is subject to the penalties provided in this Section. A
15 person commits a separate offense on each day that he or she
16 engages in business in violation of Sections 10-20, 10-21 and
17 10-22 of this Act.

18 When the amount due is \$300 or more, any distributor who
19 files, or causes to be filed, a fraudulent return, or any
20 officer or agent of a corporation engaged in the business of
21 distributing tobacco products to retailers and consumers
22 located in this State who files or causes to be filed or signs
23 or causes to be signed a fraudulent return filed on behalf of
24 the corporation, or any accountant or other agent who knowingly
25 enters false information on the return of any taxpayer under
26 this Act is guilty of a Class 3 felony.

1 When the amount due is \$300 or more, any person engaged in
2 the business of distributing tobacco products to retailers and
3 consumers located in this State who fails to file a return,
4 willfully fails or refuses to make any payment to the
5 Department of the tax imposed by this Act, or accepts money
6 that is due to the Department under this Act from a taxpayer
7 for the purpose of acting as the taxpayer's agent to make
8 payment to the Department but fails to remit such payment to
9 the Department when due is guilty of a Class 3 felony.

10 When the amount due is under \$300, any retailer who fails
11 to file a return, willfully fails or refuses to make any
12 payment to the Department of the tax imposed by this Act, or
13 files a fraudulent return, or any officer or agent of a
14 corporation engaged in the retail business of selling tobacco
15 products to purchasers of tobacco products for use and
16 consumption located in this State who signs a fraudulent return
17 filed on behalf of the corporation, or any accountant or other
18 agent who knowingly enters false information on the return of
19 any taxpayer under this Act is guilty of a Class A misdemeanor
20 for a first offense and a Class 4 felony for each subsequent
21 offense.

22 When the amount due is \$300 or more, any retailer who fails
23 to file a return, willfully fails or refuses to make any
24 payment to the Department of the tax imposed by this Act, or
25 files a fraudulent return, or any officer or agent of a
26 corporation engaged in the retail business of selling tobacco

1 products to purchasers of tobacco products for use and
2 consumption located in this State who signs a fraudulent return
3 filed on behalf of the corporation, or any accountant or other
4 agent who knowingly enters false information on the return of
5 any taxpayer under this Act is guilty of a Class 4 felony.

6 Any person whose principal place of business is in this
7 State and who is charged with a violation under this Section
8 shall be tried in the county where his or her principal place
9 of business is located unless he or she asserts a right to be
10 tried in another venue. If the taxpayer does not have his or
11 her principal place of business in this State, however, the
12 hearing must be held in Sangamon County unless the taxpayer
13 asserts a right to be tried in another venue.

14 Any taxpayer or agent of a taxpayer who with the intent to
15 defraud purports to make a payment due to the Department by
16 issuing or delivering a check or other order upon a real or
17 fictitious depository for the payment of money, knowing that it
18 will not be paid by the depository, is guilty of a deceptive
19 practice in violation of Section 17-1 of the Criminal Code of
20 2012.

21 A prosecution for a violation described in this Section may
22 be commenced within 3 years after the commission of the act
23 constituting the violation.

24 (Source: P.A. 100-201, eff. 8-18-17.)

25 (35 ILCS 143/10-36 rep.)

1 Section 40. The Tobacco Products Tax Act of 1995 is amended
2 by repealing Section 10-36.

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