



Sen. John J. Cullerton

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1 AMENDMENT TO SENATE BILL 668

2 AMENDMENT NO. _____. Amend Senate Bill 668 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Flavored Electronic Cigarette Ban Act.

6 Section 5. Definitions. In this Act:

7 "Characterizing flavor" means a distinguishable taste or
8 aroma, other than the taste or aroma of tobacco, imparted by an
9 electronic cigarette or related flavor product, or any
10 by-product produced by the electronic cigarette or related
11 flavor product. "Characterizing flavor" includes, but is not
12 limited to, tastes or aromas relating to any fruit, chocolate,
13 vanilla, honey, candy, cocoa, dessert, alcoholic beverage,
14 mint, menthol, wintergreen, herb, or spice. An electronic
15 cigarette or related flavor product does not have a
16 characterizing flavor solely because of the use of additives or

1 flavorings or the provision of ingredient information.

2 "Constituent" means any ingredient, substance, chemical,
3 or compound, other than water, that is added to an electronic
4 cigarette or related flavor product.

5 "Department" means the Department of Human Services.

6 "Distinguishable" means perceivable by either the sense of
7 smell or taste.

8 "Distributor" means a person who sells, offers for sale, or
9 transfers any tobacco, tobacco products, flavored electronic
10 cigarette, or related flavor product for resale and not for use
11 or consumption. "Distributor" includes a distributor as
12 defined in Section 1 of the Cigarette Tax Act, Section 1 of the
13 Cigarette Use Tax Act, and Section 10-5 of the Tobacco Products
14 Tax Act of 1995.

15 "Electronic cigarette" means:

16 (1) any device that employs a battery or other
17 mechanism to heat a solution or substance to produce a
18 vapor or aerosol intended for inhalation;

19 (2) any cartridge or container of a solution or
20 substance intended to be used with or in the device or to
21 refill the device; or

22 (3) any solution or substance, whether or not it
23 contains nicotine, intended for use in the device.

24 "Electronic cigarette" includes, but is not limited to, any
25 electronic nicotine delivery system, electronic cigar,
26 electronic cigarillo, electronic pipe, electronic hookah, vape

1 pen, or similar product or device, and any components or parts
2 that can be used to build the product or device. "Electronic
3 cigarette" does not include: any smokeless nicotine product; a
4 cigarette, as defined in Section 1 of the Cigarette Tax Act;
5 any tobacco product as defined in this Section; any product
6 approved by the United States Food and Drug Administration for
7 sale as a tobacco cessation product or a tobacco dependence
8 product, or for other medical purposes that is marketed and
9 sold solely for that approved purpose; any asthma inhaler
10 prescribed by a physician for that condition that is marketed
11 and sold solely for that approved purpose; any therapeutic
12 product approved for use under the Compassionate Use of Medical
13 Cannabis Program Act; or cannabis as defined in Section 1-10 of
14 the Cannabis Regulation and Tax Act.

15 "Flavored electronic cigarette" means any electronic
16 cigarette containing a constituent that imparts a
17 characterizing flavor.

18 "Labeling" means written, printed, pictorial, or graphic
19 matter upon any electronic cigarette or related flavor product
20 or any packaging of an electronic cigarette or related flavor
21 product.

22 "Packaging" means a pack, box, carton, or container of any
23 kind or, if no other container, any wrapping or cellophane in
24 which an electronic cigarette or related flavor product is sold
25 or offered for sale to a consumer.

26 "Related flavor product" means any flavor product intended

1 for or traditionally used with tobacco, including papers,
2 wraps, tubes, or filters. A product of a type which has in the
3 past been used in conjunction with tobacco or nicotine use
4 shall be deemed a "related flavor product" regardless of any
5 labeling or descriptive language on the product stating that
6 the product is not intended for use with tobacco, is for
7 non-tobacco use only, or other similar language.

8 "Retailer" means a person who engages in this State in the
9 sale, or offering for sale, of flavored electronic cigarettes
10 or related flavor products for use or consumption and not for
11 resale in any form. "Retailer" includes a retailer as that term
12 is defined in Section 1 of the Cigarette Tax Act and Section
13 10-5 of the Tobacco Products Tax Act of 1995.

14 "Secondary distributor" means a secondary distributor as
15 that term is defined in Section 1 of the Cigarette Tax Act or
16 Section 1 of the Cigarette Use Tax Act.

17 "Smokeless nicotine product" means nicotine that is in the
18 form of a solid, gel, gum, or paste that is intended for human
19 consumption, placement in the oral or nasal cavity, or
20 absorption into the human body by any other means. "Smokeless
21 nicotine product" does not include any tobacco product or
22 cigarette.

23 "Tobacco product" means any product containing or made from
24 tobacco that is intended for human consumption, whether smoked,
25 heated, chewed, absorbed, dissolved, inhaled, snorted,
26 sniffed, or ingested by any other means, including, but not

1 limited to, cigarettes, cigars, little cigars, chewing
2 tobacco, pipe tobacco, snuff, snus, and any other smokeless
3 tobacco product which contains tobacco that is finely cut,
4 ground, powdered, or leaf and intended to be placed in the oral
5 cavity. "Tobacco product" includes any component, part, or
6 accessory of a tobacco product, whether or not sold separately.
7 "Tobacco product" does not include an electronic cigarette, a
8 smokeless nicotine product, an alternative nicotine product,
9 or any product that has been approved by the United States Food
10 and Drug Administration for sale as a tobacco cessation
11 product, as a tobacco dependence product, or for other medical
12 purposes, and is being marketed and sold solely for that
13 approved purpose.

14 Section 10. Prohibitions.

15 (a) A retailer, or any of a retailer's agents or employees,
16 may not sell, offer for sale, or possess with the intent to
17 sell or offer for sale a flavored electronic cigarette or
18 related flavor product.

19 (b) A distributor or secondary distributor may not sell,
20 offer for sale, or possess with intent to sell or offer for
21 sale a flavored electronic cigarette or related flavor product
22 in this State. There is a rebuttable presumption that a
23 distributor or secondary distributor possesses a flavored
24 electronic cigarette or related flavor product with the intent
25 to sell in the State if the distributor or secondary

1 distributor cannot provide, upon request, evidence that the
2 product is intended for order or purchase from without the
3 State.

4 (c) There is a rebuttable presumption that an electronic
5 cigarette or product is a flavored electronic cigarette or
6 related flavor product if a manufacturer or any of a
7 manufacturer's agents or employees, in the course of their
8 agency or employment, has made a statement or claim directed to
9 consumers or to the public that the electronic cigarette or
10 related flavor product has or produces a characterizing flavor,
11 including, but not limited to, text, color, or images on the
12 product's labeling or packaging that are used to explicitly or
13 implicitly communicate or suggest that the electronic
14 cigarette or related flavor product has a characterizing
15 flavor. A product with labeling or packaging that suggests the
16 presence of a characterizing flavor is presumed to be a
17 flavored electronic cigarette or related flavor product.

18 (d) This Section does not apply to any flavored electronic
19 cigarette that has obtained a tobacco product clearance order
20 pursuant to Section 387j of Title 21 of the United States Code.

21 (e) A distributor, secondary distributor, or retailer, or
22 any of a retailer's agents or employees, shall not fulfill an
23 order for, or allow a flavored electronic cigarette or related
24 flavor product to be purchased by, or shipped to, any person in
25 this State. As used in this subsection, "ordered or purchased"
26 includes:

1 (1) a consumer submitting an order for sale by means
2 of:

3 (A) a telephone or other method of voice
4 transmission;

5 (B) the mail; or

6 (C) the Internet or other online service; or

7 (2) situations where the seller is otherwise not in the
8 physical presence of the buyer when the request for
9 purchase or order is made.

10 This subsection (e) applies regardless of whether the
11 retailer is located within the State or not.

12 Section 15. Administrative rules; enforcement. The
13 Department shall enforce this Act and may adopt rules or
14 guidelines for the implementation and enforcement of this Act.

15 Section 20. Violations. Upon a decision by the Department
16 after notice and hearing that a distributor, secondary
17 distributor, or retailer, or any of a retailer's agents or
18 employees, has engaged in any conduct that violates this Act,
19 the Department of Revenue may suspend: that distributor's
20 license under Section 6 of the Cigarette Tax Act, Section 6 of
21 the Cigarette Use Tax Act, or Section 10-25 of the Tobacco
22 Products Tax Act of 1995; that secondary distributor's license
23 under Section 6 of the Cigarette Tax Act or Section 6 of the
24 Cigarette Use Tax Act; or that retailer's license under Section

1 6 of the Cigarette Tax Act or Section 10-25 of the Tobacco
2 Products Tax Act of 1995. Any suspension shall be preceded by a
3 notice from the Department of Revenue of the initial
4 determination or violation. A license shall be suspended 3 days
5 for a first violation, 7 days for a second violation, and 30
6 days for a third and each subsequent violation.

7 The Department of Revenue shall impose a civil penalty not
8 to exceed \$5,000 on any person engaged in the business of
9 selling flavored electronic cigarettes or related flavor
10 products who ships or causes to be shipped any flavored
11 electronic cigarettes or related flavor products to any person
12 in this State in violation of subsection (e) of Section 10.
13 Civil penalties imposed and collected by the Department under
14 this subsection shall be deposited into the Tax Compliance and
15 Administration Fund.

16 Section 25. No conflict with federal or State law. Nothing
17 in this Act shall be interpreted or applied to create any
18 requirement, power, or duty that is preempted by federal or
19 State law.

20 Section 90. The Cigarette Tax Act is amended by changing
21 Section 6 as follows:

22 (35 ILCS 130/6) (from Ch. 120, par. 453.6)

23 Sec. 6. Revocation, cancellation, or suspension of

1 license. The Department may, after notice and hearing as
2 provided for by this Act, revoke, cancel or suspend the license
3 of any distributor, secondary distributor, or retailer for the
4 violation of any provision of this Act, or for noncompliance
5 with any provision herein contained, or for any noncompliance
6 with any lawful rule or regulation promulgated by the
7 Department under Section 8 of this Act, or because the licensee
8 is determined to be ineligible for a distributor's license for
9 any one or more of the reasons provided for in Section 4 of
10 this Act, or because the licensee is determined to be
11 ineligible for a secondary distributor's license for any one or
12 more of the reasons provided for in Section 4c of this Act, or
13 because the licensee is determined to be ineligible for a
14 retailer's license for any one or more of the reasons provided
15 for in Section 4g of this Act. However, no such license shall
16 be revoked, cancelled or suspended, except after a hearing by
17 the Department with notice to the distributor, secondary
18 distributor, or retailer, as aforesaid, and affording such
19 distributor, secondary distributor, or retailer a reasonable
20 opportunity to appear and defend, and any distributor,
21 secondary distributor, or retailer aggrieved by any decision of
22 the Department with respect thereto may have the determination
23 of the Department judicially reviewed, as herein provided.

24 The Department may revoke, cancel, or suspend the license
25 of any distributor for a violation of the Tobacco Product
26 Manufacturers' Escrow Enforcement Act as provided in Section 30

1 of that Act. The Department may revoke, cancel, or suspend the
2 license of any secondary distributor for a violation of
3 subsection (e) of Section 15 of the Tobacco Product
4 Manufacturers' Escrow Enforcement Act.

5 The Department may suspend the license of any distributor,
6 secondary distributor, or retailer for a violation of the
7 Flavored Electronic Cigarette Ban Act as provided in Section 20
8 of that Act.

9 If the retailer has a training program that facilitates
10 compliance with minimum-age tobacco laws, the Department shall
11 suspend for 3 days the license of that retailer for a fourth or
12 subsequent violation of the Prevention of Tobacco Use by
13 Persons under 21 Years of Age and Sale and Distribution of
14 Tobacco Products Act, as provided in subsection (a) of Section
15 2 of that Act. For the purposes of this Section, any violation
16 of subsection (a) of Section 2 of the Prevention of Tobacco Use
17 by Persons under 21 Years of Age and Sale and Distribution of
18 Tobacco Products Act occurring at the retailer's licensed
19 location during a 24-month period shall be counted as a
20 violation against the retailer.

21 If the retailer does not have a training program that
22 facilitates compliance with minimum-age tobacco laws, the
23 Department shall suspend for 3 days the license of that
24 retailer for a second violation of the Prevention of Tobacco
25 Use by Persons under 21 Years of Age and Sale and Distribution
26 of Tobacco Products Act, as provided in subsection (a-5) of

1 Section 2 of that Act.

2 If the retailer does not have a training program that
3 facilitates compliance with minimum-age tobacco laws, the
4 Department shall suspend for 7 days the license of that
5 retailer for a third violation of the Prevention of Tobacco Use
6 by Persons under 21 Years of Age and Sale and Distribution of
7 Tobacco Products Act, as provided in subsection (a-5) of
8 Section 2 of that Act.

9 If the retailer does not have a training program that
10 facilitates compliance with minimum-age tobacco laws, the
11 Department shall suspend for 30 days the license of a retailer
12 for a fourth or subsequent violation of the Prevention of
13 Tobacco Use by Persons under 21 Years of Age and Sale and
14 Distribution of Tobacco Products Act, as provided in subsection
15 (a-5) of Section 2 of that Act.

16 A training program that facilitates compliance with
17 minimum-age tobacco laws must include at least the following
18 elements: (i) it must explain that only individuals displaying
19 valid identification demonstrating that they are 21 years of
20 age or older shall be eligible to purchase cigarettes or
21 tobacco products and (ii) it must explain where a clerk can
22 check identification for a date of birth. The training may be
23 conducted electronically. Each retailer that has a training
24 program shall require each employee who completes the training
25 program to sign a form attesting that the employee has received
26 and completed tobacco training. The form shall be kept in the

1 employee's file and may be used to provide proof of training.

2 Any distributor, secondary distributor, or retailer
3 aggrieved by any decision of the Department under this Section
4 may, within 20 days after notice of the decision, protest and
5 request a hearing. Upon receiving a request for a hearing, the
6 Department shall give notice in writing to the distributor,
7 secondary distributor, or retailer requesting the hearing that
8 contains a statement of the charges preferred against the
9 distributor, secondary distributor, or retailer and that
10 states the time and place fixed for the hearing. The Department
11 shall hold the hearing in conformity with the provisions of
12 this Act and then issue its final administrative decision in
13 the matter to the distributor, secondary distributor, or
14 retailer. In the absence of a protest and request for a hearing
15 within 20 days, the Department's decision shall become final
16 without any further determination being made or notice given.

17 No license so revoked, as aforesaid, shall be reissued to
18 any such distributor, secondary distributor, or retailer
19 within a period of 6 months after the date of the final
20 determination of such revocation. No such license shall be
21 reissued at all so long as the person who would receive the
22 license is ineligible to receive a distributor's license under
23 this Act for any one or more of the reasons provided for in
24 Section 4 of this Act, is ineligible to receive a secondary
25 distributor's license under this Act for any one or more of the
26 reasons provided for in Section 4c of this Act, or is

1 determined to be ineligible for a retailer's license under the
2 Act for any one or more of the reasons provided for in Section
3 4g of this Act.

4 The Department upon complaint filed in the circuit court
5 may by injunction restrain any person who fails, or refuses, to
6 comply with any of the provisions of this Act from acting as a
7 distributor, secondary distributor, or retailer of cigarettes
8 in this State.

9 (Source: P.A. 101-2, eff. 7-1-19.)

10 Section 95. The Cigarette Use Tax Act is amended by
11 changing Section 6 as follows:

12 (35 ILCS 135/6) (from Ch. 120, par. 453.36)

13 Sec. 6. Revocation, cancellation, or suspension of
14 license. The Department may, after notice and hearing as
15 provided for by this Act, revoke, cancel or suspend the license
16 of any distributor or secondary distributor for the violation
17 of any provision of this Act, or for non-compliance with any
18 provision herein contained, or for any non-compliance with any
19 lawful rule or regulation promulgated by the Department under
20 Section 21 of this Act, or because the licensee is determined
21 to be ineligible for a distributor's license for any one or
22 more of the reasons provided for in Section 4 of this Act, or
23 because the licensee is determined to be ineligible for a
24 secondary distributor's license for any one or more of the

1 reasons provided for in Section 4b or Section 7a of this Act.
2 However, no such license shall be revoked, canceled or
3 suspended, except after a hearing by the Department with notice
4 to the distributor or secondary distributor, as aforesaid, and
5 affording such distributor or secondary distributor a
6 reasonable opportunity to appear and defend, and any
7 distributor or secondary distributor aggrieved by any decision
8 of the Department with respect thereto may have the
9 determination of the Department judicially reviewed, as herein
10 provided.

11 The Department may revoke, cancel, or suspend the license
12 of any distributor for a violation of the Tobacco Product
13 Manufacturers' Escrow Enforcement Act as provided in Section 30
14 of that Act. The Department may revoke, cancel, or suspend the
15 license of any secondary distributor for a violation of
16 subsection (e) of Section 15 of the Tobacco Product
17 Manufacturers' Escrow Enforcement Act.

18 The Department may suspend the license of any distributor
19 or secondary distributor for a violation of the Flavored
20 Electronic Cigarette Ban Act as provided in Section 20 of that
21 Act.

22 Any distributor or secondary distributor aggrieved by any
23 decision of the Department under this Section may, within 20
24 days after notice of the decision, protest and request a
25 hearing. Upon receiving a request for a hearing, the Department
26 shall give notice in writing to the distributor or secondary

1 distributor requesting the hearing that contains a statement of
2 the charges preferred against the distributor or secondary
3 distributor and that states the time and place fixed for the
4 hearing. The Department shall hold the hearing in conformity
5 with the provisions of this Act and then issue its final
6 administrative decision in the matter to the distributor or
7 secondary distributor. In the absence of a protest and request
8 for a hearing within 20 days, the Department's decision shall
9 become final without any further determination being made or
10 notice given.

11 No license so revoked, shall be reissued to any such
12 distributor or secondary distributor within a period of 6
13 months after the date of the final determination of such
14 revocation. No such license shall be reissued at all so long as
15 the person who would receive the license is ineligible to
16 receive a distributor's license under this Act for any one or
17 more of the reasons provided for in Section 4 of this Act or is
18 ineligible to receive a secondary distributor's license under
19 this Act for any one or more of the reasons provided for in
20 Section 4b and Section 7a of this Act.

21 The Department upon complaint filed in the circuit court
22 may by injunction restrain any person who fails, or refuses, to
23 comply with this Act from acting as a distributor or secondary
24 distributor of cigarettes in this State.

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

1 Section 100. The Tobacco Products Tax Act of 1995 is
2 amended by changing Section 10-25 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 (b-5) The Department may suspend the license of any
20 distributor or retailer for a violation of the Flavored
21 Electronic Cigarette Ban Act as provided in Section 20 of that
22 Act.

23 (c) If the retailer has a training program that facilitates
24 compliance with minimum-age tobacco laws, the Department shall
25 suspend for 3 days the license of that retailer for a fourth or

1 subsequent violation of the Prevention of Tobacco Use by
2 Persons under 21 Years of Age and Sale and Distribution of
3 Tobacco Products Act, as provided in subsection (a) of Section
4 2 of that Act. For the purposes of this Section, any violation
5 of subsection (a) of Section 2 of the Prevention of Tobacco Use
6 by Persons under 21 Years of Age and Sale and Distribution of
7 Tobacco Products Act occurring at the retailer's licensed
8 location, during a 24-month period, shall be counted as a
9 violation against the retailer.

10 If the retailer does not have a training program that
11 facilitates compliance with minimum-age tobacco laws, the
12 Department shall suspend for 3 days the license of that
13 retailer for a second violation of the Prevention of Tobacco
14 Use by Persons under 21 Years of Age and Sale and Distribution
15 of Tobacco Products Act, as provided in subsection (a-5) of
16 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 7 days the license of that
20 retailer for a third violation of the Prevention of Tobacco Use
21 by Persons under 21 Years of Age and Sale and Distribution of
22 Tobacco Products Act, as provided in subsection (a-5) of
23 Section 2 of that Act.

24 If the retailer does not have a training program that
25 facilitates compliance with minimum-age tobacco laws, the
26 Department shall suspend for 30 days the license of a retailer

1 for a fourth or subsequent violation of the Prevention of
2 Tobacco Use by Persons under 21 Years of Age and Sale and
3 Distribution of Tobacco Products Act, as provided in subsection
4 (a-5) of Section 2 of that Act.

5 A training program that facilitates compliance with
6 minimum-age tobacco laws must include at least the following
7 elements: (i) it must explain that only individuals displaying
8 valid identification demonstrating that they are 21 years of
9 age or older shall be eligible to purchase cigarettes or
10 tobacco products and (ii) it must explain where a clerk can
11 check identification for a date of birth. The training may be
12 conducted electronically. Each retailer that has a training
13 program shall require each employee who completes the training
14 program to sign a form attesting that the employee has received
15 and completed tobacco training. The form shall be kept in the
16 employee's file and may be used to provide proof of training.

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

1 court may result in punishment for contempt.

2 (Source: P.A. 100-940, eff. 8-17-18; 101-2, eff. 7-1-19.)

3 Section 105. The Prevention of Cigarette Sales to Persons
4 under 21 Years of Age Act is amended by changing Sections 2 and
5 5 as follows:

6 (720 ILCS 678/2)

7 Sec. 2. Definitions. For the purpose of this Act:

8 "Cigarette", when used in this Act, means any roll for
9 smoking made wholly or in part of tobacco irrespective of size
10 or shape and whether or not the tobacco is flavored,
11 adulterated, or mixed with any other ingredient, and the
12 wrapper or cover of which is made of paper or any other
13 substance or material except whole leaf tobacco.

14 "Clear and conspicuous statement" means the statement is of
15 sufficient type size to be clearly readable by the recipient of
16 the communication.

17 "Consumer" means an individual who acquires or seeks to
18 acquire cigarettes, electronic cigarettes, or related flavor
19 products for personal use.

20 "Delivery sale" means any sale of cigarettes, electronic
21 cigarettes, or related flavor products to a consumer if:

22 (a) the consumer submits the order for such sale by
23 means of a telephone or other method of voice transmission,
24 the mails, or the Internet or other online service, or the

1 seller is otherwise not in the physical presence of the
2 buyer when the request for purchase or order is made; or

3 (b) the cigarettes, electronic cigarettes, or related
4 flavor products are delivered by use of a common carrier,
5 private delivery service, or the mails, or the seller is
6 not in the physical presence of the buyer when the buyer
7 obtains possession of the cigarettes, electronic
8 cigarettes, or related flavor products.

9 "Delivery service" means any person (other than a person
10 that makes a delivery sale) who delivers to the consumer the
11 cigarettes, electronic cigarettes, or related flavor products
12 sold in a delivery sale.

13 "Department" means the Department of Revenue.

14 "Government-issued identification" means a State driver's
15 license, State identification card, passport, a military
16 identification or an official naturalization or immigration
17 document, such as an alien registration recipient card
18 (commonly known as a "green card") or an immigrant visa.

19 "Mails" or "mailing" mean the shipment of cigarettes,
20 electronic cigarettes, or related flavor products through the
21 United States Postal Service.

22 "Out-of-state sale" means a sale of cigarettes, electronic
23 cigarettes, or related flavor products to a consumer located
24 outside of this State where the consumer submits the order for
25 such sale by means of a telephonic or other method of voice
26 transmission, the mails or any other delivery service,

1 facsimile transmission, or the Internet or other online service
2 and where the cigarettes, electronic cigarettes, or related
3 flavor products are delivered by use of the mails or other
4 delivery service.

5 "Person" means any individual, corporation, partnership,
6 limited liability company, association, or other organization
7 that engages in any for-profit or not-for-profit activities.

8 "Shipping package" means a container in which packs or
9 cartons of cigarettes, electronic cigarettes, or related
10 flavor products are shipped in connection with a delivery sale.

11 "Shipping documents" means bills of lading, air bills, or
12 any other documents used to evidence the undertaking by a
13 delivery service to deliver letters, packages, or other
14 containers.

15 (Source: P.A. 95-1053, eff. 1-1-10; 96-782, eff. 1-1-10.)

16 (720 ILCS 678/5)

17 Sec. 5. Unlawful shipment or transportation of cigarettes,
18 electronic cigarettes, or related flavor products.

19 (a) It is unlawful for any person engaged in the business
20 of selling cigarettes, electronic cigarettes, or related
21 flavor products to ship or cause to be shipped any cigarettes,
22 electronic cigarettes, or related flavor products unless the
23 person shipping ~~the cigarettes~~:

24 (1) is licensed as a distributor under ~~either~~ the
25 Cigarette Tax Act, ~~or~~ the Cigarette Use Tax Act, or the

1 Tobacco Products Tax Act of 1995; or delivers the
2 cigarettes, electronic cigarettes, or related flavor
3 products to a distributor licensed under ~~either~~ the
4 Cigarette Tax Act, ~~or~~ the Cigarette Use Tax Act, or the
5 Tobacco Products Tax Act of 1995; or

6 (2) ships them to an export warehouse proprietor
7 pursuant to Chapter 52 of the Internal Revenue Code, or an
8 operator of a customs bonded warehouse pursuant to Section
9 1311 or 1555 of Title 19 of the United States Code.

10 For purposes of this subsection (a), a person is a licensed
11 distributor if the person's name appears on a list of licensed
12 distributors published by the Illinois Department of Revenue.
13 The term cigarette has the same meaning as defined in Section 1
14 of the Cigarette Tax Act and Section 1 of the Cigarette Use Tax
15 Act. The term electronic cigarette has the same meaning as
16 defined in Section 10-5 of the Tobacco Products Tax Act of
17 1995. The term related flavor product has the same meaning as
18 defined in Section 5 of the Flavored Electronic Cigarette Ban
19 Act. Nothing in this Act prohibits a person licensed as a
20 distributor under the Cigarette Tax Act or the Cigarette Use
21 Tax Act from shipping or causing to be shipped any cigarettes
22 to a registered retailer under the Retailers' Occupation Tax
23 Act provided the cigarette tax or cigarette use tax has been
24 paid.

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

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

9 (c) A common or contract carrier may not complete the
10 delivery of any cigarettes to persons other than those
11 described in paragraph (a)(1) of this Section without first
12 obtaining from the purchaser an official written
13 identification from any state or federal agency that displays
14 the person's date of birth or a birth certificate that includes
15 a reliable confirmation that the purchaser is at least 21 years
16 of age; that the cigarettes purchased are not intended for
17 consumption by an individual who is younger than 21 years of
18 age; and a written statement signed by the purchaser that
19 certifies the purchaser's address and that the purchaser is at
20 least 21 years of age. The statement shall also confirm: (1)
21 that the purchaser understands that signing another person's
22 name to the certification is illegal; (2) that the sale of
23 cigarettes to individuals under 21 years of age is illegal; and
24 (3) that the purchase of cigarettes by individuals under 21
25 years of age is illegal under the laws of Illinois.

26 (d) When a person engaged in the business of selling

1 cigarettes ships or causes to be shipped any cigarettes to any
2 person in this State, other than in the cigarette
3 manufacturer's or tobacco products manufacturer's original
4 container or wrapping, the container or wrapping must be
5 plainly and visibly marked with the word "cigarettes".

6 (e) When a peace officer of this State or any duly
7 authorized officer or employee of the Illinois Department of
8 Public Health or Department of Revenue discovers any
9 cigarettes, electronic cigarettes, or related flavor products
10 which have been or which are being shipped or transported in
11 violation of this Section, he or she shall seize and take
12 possession of the cigarettes, electronic cigarettes, or
13 related flavor products, and the cigarettes shall be subject to
14 a forfeiture action pursuant to the procedures provided under
15 the Cigarette Tax Act or Cigarette Use Tax Act.

16 (Source: P.A. 101-2, eff. 7-1-19.)

17 Section 997. Severability. The provisions of this Act are
18 severable under Section 1.31 of the Statute on Statutes.

19 Section 999. Effective date. This Act takes effect June 1,
20 2020."