

1 AN ACT concerning health.

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

4 Section 1. Short title. This Act may be cited as the
5 Preventing Youth Vaping Act.

6 Section 5. Definitions. In this Act:

7 "Additive" means any substance the intended use of which
8 results or may reasonably be expected to result, directly or
9 indirectly, in it becoming a component or otherwise affecting
10 the characteristic of any tobacco product, including, but not
11 limited to, any substances intended for use as a flavoring or
12 coloring or in producing, manufacturing, packing, processing,
13 preparing, treating, packaging, transporting, or holding.
14 "Additive" does not include tobacco or a pesticide chemical
15 residue in or on raw tobacco or a pesticide chemical.

16 "Consumer" means an individual who acquires or seeks to
17 acquire electronic cigarettes for personal use.

18 "Distributor" means a person who sells, offers for sale,
19 or transfers any tobacco, electronic cigarette, or tobacco
20 product for resale and not for use or consumption.

21 "Distributor" includes a distributor as defined in Section 1
22 of the Cigarette Tax Act, Section 1 of the Cigarette Use Tax
23 Act, and Section 10-5 of the Tobacco Products Tax Act of 1995.

1 "Electronic cigarette" means:

2 (1) any device that employs a battery or other
3 mechanism to heat a solution or substance to produce a
4 vapor or aerosol intended for inhalation;

5 (2) any cartridge or container of a solution or
6 substance intended to be used with or in the device or to
7 refill the device; or

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

10 "Electronic cigarette" includes, but is not limited to,
11 any electronic nicotine delivery system, electronic cigar,
12 electronic cigarillo, electronic pipe, electronic hookah, vape
13 pen, or similar product or device, and any component, part, or
14 accessory of a device used during the operation of the device
15 even if the part or accessory was sold separately. "Electronic
16 cigarette" does not include: cigarettes, as defined in Section
17 1 of the Cigarette Tax Act; any product approved by the United
18 States Food and Drug Administration for sale as a smoking
19 cessation product, a tobacco dependence product, or for other
20 medical purposes that is marketed and sold solely for that
21 approved purpose; any asthma inhaler prescribed by a physician
22 for that condition that is marketed and sold solely for that
23 approved purpose; any device that meets the definition of
24 cannabis paraphernalia under Section 1-10 of the Cannabis
25 Regulation and Tax Act; or any cannabis product sold by a
26 dispensing organization pursuant to the Cannabis Regulation

1 and Tax Act or the Compassionate Use of Medical Cannabis
2 Program Act.

3 "Manufacturer" means any person, wherever resident or
4 located, who manufactures and sells tobacco products.
5 "Manufacturer" does not include a person who makes,
6 manufactures, or fabricates tobacco products as a part of a
7 correctional industries program for sale to persons
8 incarcerated in penal institutions or resident patients of a
9 State-operated mental health facility.

10 "Modified risk tobacco product" means any tobacco product
11 that is sold or distributed to reduce harm or the risk of
12 tobacco related disease associated with commercially marketed
13 tobacco products.

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

17 "Retailer" means a person who engages in this State in the
18 sale of or offers for sale electronic cigarettes for use or
19 consumption and not for resale in any form. "Retailer"
20 includes a retailer as defined in Section 1 of the Cigarette
21 Tax Act and Section 10-5 of the Tobacco Products Tax Act of
22 1995.

23 "Secondary distributor" has the same meaning as defined in
24 Section 1 of the Cigarette Tax Act and Section 1 of the
25 Cigarette Use Tax Act.

26 "Tobacco product" has the same meaning as defined in

1 Section 10-5 of the Tobacco Products Tax Act of 1995.

2 "Vapor product" means any noncombustible product that
3 employs a heating element, battery, electronic circuit, or
4 other means, regardless of shape or size, that can be used to
5 produce vapor from nicotine in a solution. "Vapor product"
6 includes, but is not limited to, any vapor cartridge or other
7 container of nicotine in a solution or other form that may be
8 used with or in an electronic cigarette, electronic cigar,
9 electronic cigarillo, electronic pipe, or similar product or
10 device and any component, part, or accessory of a device used
11 during the operation of the device, even if the part or
12 accessory was sold separately.

13 Section 10. Enforcement; rulemaking.

14 (a) The Department of Agriculture, Department of Revenue,
15 Department of Public Health, and Illinois State Police shall
16 have equal and joint authority to administer and enforce this
17 Act and may adopt rules for the purpose of administering and
18 enforcing this Act.

19 (b) The Department of Agriculture, Department of Revenue,
20 Department of Public Health, and Illinois State Police may
21 inspect any business that sells, manufactures, transports, or
22 distributes electronic cigarettes in the State to ensure
23 compliance with this Act.

24 Section 15. Prohibitions.

1 (a) It is unlawful for a person to do any of the following:

2 (1) To sell or distribute in this State; to acquire,
3 hold, own, possess, or transport, for sale or distribution
4 in this State; or to import, or cause to be imported into
5 this State for sale or distribution in this State:

6 (A) any electronic cigarette with packaging that:

7 (i) bears any statement, label, stamp,
8 sticker, or notice indicating that the
9 manufacturer did not intend the electronic
10 cigarette to be sold, distributed, or used in the
11 United States, including, but not limited to,
12 labels stating "For Export Only", "U.S. Tax
13 Exempt", "For Use Outside U.S.", or similar
14 wording; or

15 (ii) does not comply with:

16 (I) all requirements imposed by or
17 pursuant to federal law regarding warnings and
18 other information on packages of electronic
19 cigarettes manufactured, packaged, or imported
20 for sale, distribution, or use in the United
21 States; and

22 (II) all federal trademark and copyright
23 laws; and

24 (B) any electronic cigarette that the person
25 otherwise knows or has reason to know the manufacturer
26 did not intend to be sold, distributed, or used in the

1 United States.

2 (2) To alter the packaging of an electronic cigarette,
3 prior to sale or distribution to the ultimate consumer, so
4 as to remove, conceal, or obscure any statement, label,
5 stamp, sticker, or notice required under this Section or
6 federal law.

7 (3) To affix any stamp required under this Act to the
8 packaging of any electronic cigarettes described in
9 subparagraph (A) of paragraph (1) or altered in violation
10 of subparagraph (A) of paragraph (1).

11 (4) To adulterate an electronic cigarette for sale in
12 this State. An electronic cigarette is adulterated if:

13 (A) it consists in whole or in part of any filthy,
14 putrid, or decomposed substance, or is otherwise
15 contaminated by any added poisonous or deleterious
16 substance that may render the product injurious to
17 health;

18 (B) it is held or packaged in containers composed,
19 in whole or in part, of any poisonous or deleterious
20 substance that may render the contents injurious to
21 health; or

22 (C) it is required by 21 U.S.C. 387j(a) to have
23 premarket review and does not have an order in effect
24 under 21 U.S.C. 387j(c)(1)(A)(i) or is in violation of
25 an order under 21 U.S.C. 387j(c)(1)(A).

26 Electronic cigarettes first sold prior to August 8, 2016

1 and for which a premarket tobacco product application was
2 submitted to the U.S. Food and Drug Administration by
3 September 9, 2020 shall not be deemed to be in violation of
4 this subsection.

5 (b) A distributor, secondary distributor, retailer, or
6 person who violates this Section shall be guilty of a Class 4
7 felony.

8 Section 20. Additives. An electronic cigarette for sale in
9 this State shall not include the following additives:

- 10 (1) polyethylene glycol (PEG);
11 (2) vitamin E acetate; or
12 (3) medium chain triglycerides (MCT oil).

13 Section 25. Advertising.

14 (a) A manufacturer, distributor, or retailer may not
15 advertise, market, or promote an electronic cigarette as a
16 modified risk tobacco product unless it has been designated as
17 a modified risk tobacco product by the United States Food and
18 Drug Administration.

19 (b) A manufacturer, distributor, or retailer may not
20 advertise, market, or promote or advertise an electronic
21 cigarette as providing smoking cessation benefits to consumers
22 unless it has approval from the United States Food and Drug
23 Administration to market its electronic cigarette as a medical
24 product for such purpose.

1 (c) A manufacturer, distributor, or retailer may not
2 advertise, market, or promote an electronic cigarette in a
3 manner that includes fraudulent or misleading terms or
4 statements.

5 (d) A manufacturer, distributor, or retailer may not
6 advertise, market, or promote an electronic cigarette in a
7 manner that:

8 (1) encourages persons under 21 years of age to use an
9 electronic cigarette; or

10 (2) is attractive to persons under 21 years of age,
11 including, but not limited to, inclusion of the following:

12 (A) cartoons;

13 (B) an image, character, or phrase that is similar
14 to one popularly used to advertise to children; or

15 (C) a video game, movie, video, or animated
16 television show known to appeal primarily to persons
17 under 21 years of age.

18 Section 30. Manufacturer requirements. A manufacturer
19 shall ensure that the label on an electronic cigarette
20 container meets the nicotine addictiveness warning statement
21 requirements under 21 CFR 1143.3.

22 Section 35. Violations.

23 (a) Upon a finding that a distributor, secondary
24 distributor, retailer, or person has committed any of the

1 conduct prohibited under this Act or any rule adopted under
2 this Act, knowing or having reason to know that he or she has
3 done so, the Department of Revenue may: revoke or suspend the
4 license or licenses of the distributor, secondary distributor,
5 retailer, or person pursuant to the procedures set forth in
6 the Cigarette Tax Act, Cigarette Use Tax Act, or the Tobacco
7 Products Tax Act of 1995; and impose on the distributor,
8 secondary distributor, retailer, or person a civil penalty in
9 an amount not to exceed the greater of 500% of the retail value
10 of the electronic cigarettes involved or \$10,000.

11 (b) Electronic cigarettes that are acquired in, held in,
12 owned in, possessed in, transported within, imported into, or
13 sold or distributed across this State in violation of this Act
14 shall be deemed contraband under this Act and are subject to
15 seizure and forfeiture as provided in subsection (g) of
16 Section 1 of the Prevention of Tobacco Use by Persons under 21
17 Years of Age and Sale and Distribution of Tobacco Products
18 Act, and all such electronic cigarettes seized and forfeited
19 shall be destroyed or maintained and used in an undercover
20 capacity. Such electronic cigarettes shall be deemed
21 contraband whether the violation of this Act is knowing or
22 otherwise.

23 (c) The Attorney General may enforce violations of Section
24 15 or 25 of this Act as an unlawful practice under the Consumer
25 Fraud and Deceptive Business Practices Act.

1 Section 40. The Prevention of Tobacco Use by Persons under
2 21 Years of Age and Sale and Distribution of Tobacco Products
3 Act is amended by changing Section 1 as follows:

4 (720 ILCS 675/1) (from Ch. 23, par. 2357)

5 Sec. 1. Prohibition on sale of tobacco products,
6 electronic cigarettes, and alternative nicotine products to
7 persons under 21 years of age; prohibition on the distribution
8 of tobacco product samples, electronic cigarette samples, and
9 alternative nicotine product samples to any person; use of
10 identification cards; vending machines; lunch wagons;
11 out-of-package sales.

12 (a) No person under 21 years of age shall buy any tobacco
13 product, electronic cigarette, or alternative nicotine
14 product. No person shall sell, buy for, distribute samples of
15 or furnish any tobacco product, electronic cigarette, or any
16 alternative nicotine product to any person under 21 years of
17 age.

18 (a-5) No person under 16 years of age may sell any tobacco
19 product, electronic cigarette, or alternative nicotine product
20 at a retail establishment selling tobacco products, electronic
21 cigarettes, or alternative nicotine products. This subsection
22 does not apply to a sales clerk in a family-owned business
23 which can prove that the sales clerk is in fact a son or
24 daughter of the owner.

25 (a-5.1) Before selling, offering for sale, giving, or

1 furnishing a tobacco product, electronic cigarette, or
2 alternative nicotine product to another person, the person
3 selling, offering for sale, giving, or furnishing the tobacco
4 product, electronic cigarette, or alternative nicotine product
5 shall verify that the person is at least 21 years of age by:

6 (1) examining from any person that appears to be under
7 30 years of age a government-issued photographic
8 identification that establishes the person to be 21 years
9 of age or older; or

10 (2) for sales of tobacco products, electronic
11 cigarettes, or alternative nicotine products made through
12 the Internet or other remote sales methods, performing an
13 age verification through an independent, third party age
14 verification service that compares information available
15 from public records to the personal information entered by
16 the person during the ordering process that establishes
17 the person is 21 years of age or older.

18 (a-6) No person under 21 years of age in the furtherance or
19 facilitation of obtaining any tobacco product, electronic
20 cigarette, or alternative nicotine product shall display or
21 use a false or forged identification card or transfer, alter,
22 or deface an identification card.

23 (a-7) (Blank).

24 (a-8) A person shall not distribute without charge samples
25 of any tobacco product to any other person, regardless of age,
26 except for smokeless tobacco in an adult-only facility.

1 This subsection (a-8) does not apply to the distribution
2 of a tobacco product, electronic cigarette, or alternative
3 nicotine product sample in any adult-only facility.

4 (a-9) For the purpose of this Section:

5 "Adult-only facility" means a facility or restricted
6 area (whether open-air or enclosed) where the operator
7 ensures or has a reasonable basis to believe (such as by
8 checking identification as required under State law, or by
9 checking the identification of any person appearing to be
10 under the age of 30) that no person under legal age is
11 present. A facility or restricted area need not be
12 permanently restricted to persons under 21 years of age to
13 constitute an adult-only facility, provided that the
14 operator ensures or has a reasonable basis to believe that
15 no person under 21 years of age is present during the event
16 or time period in question.

17 "Alternative nicotine product" means a product or
18 device not consisting of or containing tobacco that
19 provides for the ingestion into the body of nicotine,
20 whether by chewing, smoking, absorbing, dissolving,
21 inhaling, snorting, sniffing, or by any other means.

22 "Alternative nicotine product" does not include:
23 cigarettes as defined in Section 1 of the Cigarette Tax
24 Act and tobacco products as defined in Section 10-5 of the
25 Tobacco Products Tax Act of 1995; tobacco product and
26 electronic cigarette as defined in this Section; or any

1 product approved by the United States Food and Drug
2 Administration for sale as a tobacco cessation product, as
3 a tobacco dependence product, or for other medical
4 purposes, and is being marketed and sold solely for that
5 approved purpose.

6 "Electronic cigarette" means:

7 (1) any device that employs a battery or other
8 mechanism to heat a solution or substance to produce a
9 vapor or aerosol intended for inhalation;

10 (2) any cartridge or container of a solution or
11 substance intended to be used with or in the device or
12 to refill the device; or

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

15 "Electronic cigarette" includes, but is not limited
16 to, any electronic nicotine delivery system, electronic
17 cigar, electronic cigarillo, electronic pipe, electronic
18 hookah, vape pen, or similar product or device, ~~and~~ any
19 components or parts that can be used to build the product
20 or device, and any component, part, or accessory of a
21 device used during the operation of the device, even if
22 the part or accessory was sold separately. "Electronic
23 cigarette" does not include: cigarettes as defined in
24 Section 1 of the Cigarette Tax Act ~~and tobacco products as~~
25 ~~defined in Section 10-5 of the Tobacco Products Tax Act of~~
26 ~~1995~~; tobacco product and alternative nicotine product as

1 defined in this Section; any product approved by the
2 United States Food and Drug Administration for sale as a
3 tobacco cessation product, as a tobacco dependence
4 product, or for other medical purposes, and is being
5 marketed and sold solely for that approved purpose; any
6 asthma inhaler prescribed by a physician for that
7 condition and is being marketed and sold solely for that
8 approved purpose; any device that meets the definition of
9 cannabis paraphernalia under Section 1-10 of the Cannabis
10 Regulation and Tax Act; or any cannabis therapeutic
11 product sold by a dispensing organization pursuant to the
12 Cannabis Regulation and Tax Act or approved for use under
13 the Compassionate Use of Medical Cannabis Pilot Program
14 Act.

15 "Lunch wagon" means a mobile vehicle designed and
16 constructed to transport food and from which food is sold
17 to the general public.

18 "Nicotine" means any form of the chemical nicotine,
19 including any salt or complex, regardless of whether the
20 chemical is naturally or synthetically derived.

21 "Tobacco product" means any product containing or made
22 from tobacco that is intended for human consumption,
23 whether smoked, heated, chewed, absorbed, dissolved,
24 inhaled, snorted, sniffed, or ingested by any other means,
25 including, but not limited to, cigarettes, cigars, little
26 cigars, chewing tobacco, pipe tobacco, snuff, snus, and

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

13 (b) Tobacco products, electronic cigarettes, and
14 alternative nicotine products may be sold through a vending
15 machine only if such tobacco products, electronic cigarettes,
16 and alternative nicotine products are not placed together with
17 any non-tobacco product, other than matches, in the vending
18 machine and the vending machine is in any of the following
19 locations:

20 (1) (Blank).

21 (2) Places to which persons under 21 years of age are
22 not permitted access at any time.

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

26 (4) (Blank).

1 (5) (Blank).

2 (c) (Blank).

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

9 (e) It is not a violation of this Act for a person under 21
10 years of age to purchase a tobacco product, electronic
11 cigarette, or alternative nicotine product if the person under
12 the age of 21 purchases or is given the tobacco product,
13 electronic cigarette, or alternative nicotine product in any
14 of its forms from a retail seller of tobacco products,
15 electronic cigarettes, or alternative nicotine products or an
16 employee of the retail seller pursuant to a plan or action to
17 investigate, patrol, or otherwise conduct a "sting operation"
18 or enforcement action against a retail seller of tobacco
19 products, electronic cigarettes, or alternative nicotine
20 products or a person employed by the retail seller of tobacco
21 products, electronic cigarettes, or alternative nicotine
22 products or on any premises authorized to sell tobacco
23 products, electronic cigarettes, or alternative nicotine
24 products to determine if tobacco products, electronic
25 cigarettes, or alternative nicotine products are being sold or
26 given to persons under 21 years of age if the "sting operation"

1 or enforcement action is approved by, conducted by, or
2 conducted on behalf of the Department of State Police, the
3 county sheriff, a municipal police department, the Department
4 of Revenue, the Department of Public Health, or a local health
5 department. The results of any sting operation or enforcement
6 action, including the name of the clerk, shall be provided to
7 the retail seller within 7 business days.

8 (f) No person shall honor or accept any discount, coupon,
9 or other benefit or reduction in price that is inconsistent
10 with 21 CFR 1140, subsequent United States Food and Drug
11 Administration industry guidance, or any rules adopted under
12 21 CFR 1140.

13 (g) Any peace officer or duly authorized member of the
14 Department of Revenue or the Department of Public Health, upon
15 discovering a violation of subsection (a), (a-5), (a-5.1),
16 (a-8), (b), or (d) of this Section or a violation of the
17 Preventing Youth Vaping Act, may seize any tobacco products or
18 electronic cigarettes of the specific type involved in that
19 violation that are located at that place of business. The
20 tobacco products or electronic cigarettes so seized are
21 subject to confiscation and forfeiture.

22 (h) If, within 60 days after any seizure under subsection
23 (g), a person having any property interest in the seized
24 property is charged with an offense under this Section or a
25 violation of the Preventing Youth Vaping Act, the court that
26 renders judgment upon the charge shall, within 30 days after

1 the judgment, conduct a forfeiture hearing to determine
2 whether the seized tobacco products or electronic cigarettes
3 were part of the inventory located at the place of business
4 when a violation of subsection (a), (a-5), (a-5.1), (a-8),
5 (b), or (d) of this Section or a violation of the Preventing
6 Youth Vaping Act occurred and whether any seized tobacco
7 products or electronic cigarettes were of a type involved in
8 that violation. The hearing shall be commenced by a written
9 petition by the State, which shall include material
10 allegations of fact, the name and address of every person
11 determined by the State to have any property interest in the
12 seized property, a representation that written notice of the
13 date, time, and place of the hearing has been mailed to every
14 such person by certified mail at least 10 days before the date,
15 and a request for forfeiture. Every such person may appear as a
16 party and present evidence at the hearing. The quantum of
17 proof required shall be a preponderance of the evidence, and
18 the burden of proof shall be on the State. If the court
19 determines that the seized property was subject to forfeiture,
20 an order of forfeiture and disposition of the seized property
21 shall be entered and the property shall be received by the
22 prosecuting office, who shall effect its destruction.

23 (i) If a seizure under subsection (g) is not followed by a
24 charge under subsection (a), (a-5), (a-5.1), (a-8), (b), or
25 (d) of this Section or under the Preventing Youth Vaping Act,
26 or if the prosecution of the charge is permanently terminated

1 or indefinitely discontinued without any judgment of
2 conviction or acquittal:

3 (1) the prosecuting office may commence in the circuit
4 court an in rem proceeding for the forfeiture and
5 destruction of any seized tobacco products or electronic
6 cigarettes; and

7 (2) any person having any property interest in the
8 seized tobacco products or electronic cigarettes may
9 commence separate civil proceedings in the manner provided
10 by law.

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

12 Section 45. The Prevention of Cigarette Sales to Persons
13 under 21 Years of Age Act is amended by changing Sections 1, 2,
14 5, 6, 7, 8, 10, and 20 as follows:

15 (720 ILCS 678/1)

16 Sec. 1. Short title. This Act may be cited as the
17 Prevention of Cigarette and Electronic Cigarette Sales to
18 Persons under 21 Years of Age Act.

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

20 (720 ILCS 678/2)

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

22 "Cigarette", when used in this Act, means any roll for
23 smoking made wholly or in part of tobacco irrespective of size

1 or shape and whether or not the tobacco is flavored,
2 adulterated, or mixed with any other ingredient, and the
3 wrapper or cover of which is made of paper or any other
4 substance or material except whole leaf tobacco.

5 "Clear and conspicuous statement" means the statement is
6 of sufficient type size to be clearly readable by the
7 recipient of the communication.

8 "Consumer" means an individual who acquires or seeks to
9 acquire cigarettes or electronic cigarettes for personal use.

10 "Delivery sale" means any sale of cigarettes or electronic
11 cigarettes to a consumer if:

12 (a) the consumer submits the order for such sale by
13 means of a telephone or other method of voice
14 transmission, the mails, or the Internet or other online
15 service, or the seller is otherwise not in the physical
16 presence of the buyer when the request for purchase or
17 order is made; or

18 (b) the cigarettes or electronic cigarettes are
19 delivered by use of a common carrier, private delivery
20 service, or the mails, or the seller is not in the physical
21 presence of the buyer when the buyer obtains possession of
22 the cigarettes or electronic cigarettes.

23 "Delivery service" means any person (other than a person
24 that makes a delivery sale) who delivers to the consumer the
25 cigarettes or electronic cigarettes sold in a delivery sale.

26 "Department" means the Department of Revenue.

1 "Electronic cigarette" means:

2 (1) any device that employs a battery or other
3 mechanism to heat a solution or substance to produce a
4 vapor or aerosol intended for inhalation;

5 (2) any cartridge or container of a solution or
6 substance intended to be used with or in the device or to
7 refill the device; or

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

10 "Electronic cigarette" includes, but is not limited to,
11 any electronic nicotine delivery system, electronic cigar,
12 electronic cigarillo, electronic pipe, electronic hookah, vape
13 pen, or similar product or device, and any component, part, or
14 accessory of a device used during the operation of the device,
15 even if the part or accessory was sold separately. "Electronic
16 cigarette" does not include: cigarettes, as defined in Section
17 1 of the Cigarette Tax Act; any product approved by the United
18 States Food and Drug Administration for sale as a tobacco
19 cessation product, a tobacco dependence product, or for other
20 medical purposes that is marketed and sold solely for that
21 approved purpose; any asthma inhaler prescribed by a physician
22 for that condition that is marketed and sold solely for that
23 approved purpose; any device that meets the definition of
24 cannabis paraphernalia under Section 1-10 of the Cannabis
25 Regulation and Tax Act; or any cannabis product sold by a
26 dispensing organization pursuant to the Cannabis Regulation

1 and Tax Act or the Compassionate Use of Medical Cannabis
2 Program Act.

3 "Government-issued identification" means a State driver's
4 license, State identification card, passport, a military
5 identification or an official naturalization or immigration
6 document, such as an alien registration recipient card
7 (commonly known as a "green card") or an immigrant visa.

8 "Mails" or "mailing" mean the shipment of cigarettes or
9 electronic cigarettes through the United States Postal
10 Service.

11 "Out-of-state sale" means a sale of cigarettes or
12 electronic cigarettes to a consumer located outside of this
13 State where the consumer submits the order for such sale by
14 means of a telephonic or other method of voice transmission,
15 the mails or any other delivery service, facsimile
16 transmission, or the Internet or other online service and
17 where the cigarettes or electronic cigarettes are delivered by
18 use of the mails or other delivery service.

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

22 "Shipping package" means a container in which packs or
23 cartons of cigarettes or electronic cigarettes are shipped in
24 connection with a delivery sale.

25 "Shipping documents" means bills of lading, air bills, or
26 any other documents used to evidence the undertaking by a

1 delivery service to deliver letters, packages, or other
2 containers.

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

4 (720 ILCS 678/5)

5 Sec. 5. Unlawful shipment or transportation of cigarettes
6 or electronic cigarettes.

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

12 (1) is licensed as a distributor or, in the case of
13 electronic cigarettes, a retailer, under ~~either~~ the
14 Cigarette Tax Act, ~~or~~ the Cigarette Use Tax Act, or the
15 Tobacco Products Tax Act of 1995; or delivers the
16 cigarettes or electronic cigarettes to a distributor, or
17 in the case of electronic cigarettes, a retailer, licensed
18 under ~~either~~ the Cigarette Tax Act, ~~or~~ the Cigarette Use
19 Tax Act, or the Tobacco Products Tax Act of 1995; or

20 (2) ships them to an export warehouse proprietor
21 pursuant to Chapter 52 of the Internal Revenue Code, or an
22 operator of a customs bonded warehouse pursuant to Section
23 1311 or 1555 of Title 19 of the United States Code.

24 For purposes of this subsection (a), a person is a
25 licensed distributor if the person's name appears on a list of

1 licensed distributors published by the Illinois Department of
2 Revenue. The term cigarette has the same meaning as defined in
3 Section 1 of the Cigarette Tax Act and Section 1 of the
4 Cigarette Use Tax Act. Nothing in this Act prohibits a person
5 licensed as a distributor under the Cigarette Tax Act, ~~or~~ the
6 Cigarette Use Tax Act, or the Tobacco Products Tax Act of 1995
7 from shipping or causing to be shipped any cigarettes or
8 electronic cigarettes to a registered retailer under the
9 Retailers' Occupation Tax Act provided the cigarette tax, ~~or~~
10 cigarette use tax, or tobacco product tax has been paid.

11 In this Section, "retailer" means a person who engages in
12 this State in the sale of or offering for sale of electronic
13 cigarettes for use or consumption and not for resale in any
14 form. "Retailer" includes a retailer as defined in Section 1
15 of the Cigarette Tax Act and Section 10-5 of the Tobacco
16 Products Tax Act of 1995.

17 (b) A common or contract carrier may transport cigarettes
18 or electronic cigarettes to any individual person in this
19 State only if the carrier reasonably believes such cigarettes
20 or electronic cigarettes have been received from a person
21 described in paragraph (a) (1). Common or contract carriers may
22 make deliveries of cigarettes or electronic cigarettes to
23 licensed distributors described in paragraph (a) (1) of this
24 Section. Nothing in this subsection (b) shall be construed to
25 prohibit a person other than a common or contract carrier from
26 transporting not more than 1,000 cigarettes at any one time to

1 any person in this State.

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

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

1 "electronic cigarettes".

2 (e) When a peace officer of this State or any duly
3 authorized officer or employee of the Illinois Department of
4 Public Health or Department of Revenue discovers any
5 cigarettes or electronic cigarettes which have been or which
6 are being shipped or transported in violation of this Section,
7 he or she shall seize and take possession of the cigarettes or
8 electronic cigarettes, and the cigarettes or electronic
9 cigarettes shall be subject to a forfeiture action pursuant to
10 the procedures provided under the Cigarette Tax Act, ~~or~~
11 Cigarette Use Tax Act, or Tobacco Products Tax Act of 1995.

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

13 (720 ILCS 678/6)

14 Sec. 6. Prevention of delivery sales to persons under 21
15 years of age.

16 (a) No person shall make a delivery sale of cigarettes or
17 electronic cigarettes to any individual who is under 21 years
18 of age.

19 (b) Each person accepting a purchase order for a delivery
20 sale shall comply with the provisions of this Act and all other
21 laws of this State generally applicable to sales of cigarettes
22 or electronic cigarettes that occur entirely within this
23 State.

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

1 (720 ILCS 678/7)

2 Sec. 7. Age verification and shipping requirements to
3 prevent delivery sales to persons under 21 years of age.

4 (a) No person, other than a delivery service, shall mail,
5 ship, or otherwise cause to be delivered a shipping package in
6 connection with a delivery sale unless the person:

7 (1) prior to the first delivery sale to the
8 prospective consumer, obtains from the prospective
9 consumer a written certification which includes a
10 statement signed by the prospective consumer that
11 certifies:

12 (A) the prospective consumer's current address;
13 and

14 (B) that the prospective consumer is at least the
15 legal minimum age;

16 (2) informs, in writing, such prospective consumer
17 that:

18 (A) the signing of another person's name to the
19 certification described in this Section is illegal;

20 (B) sales of cigarettes or electronic cigarettes
21 to individuals under 21 years of age are illegal;

22 (C) the purchase of cigarettes or electronic
23 cigarettes by individuals under 21 years of age is
24 illegal; and

25 (D) the name and identity of the prospective
26 consumer may be reported to the state of the

1 consumer's current address under the Act of October
2 19, 1949 (15 U.S.C. § 375, et seq.), commonly known as
3 the Jenkins Act;

4 (3) makes a good faith effort to verify the date of
5 birth of the prospective consumer provided pursuant to
6 this Section by:

7 (A) comparing the date of birth against a
8 commercially available database; or

9 (B) obtaining a photocopy or other image of a
10 valid, government-issued identification stating the
11 date of birth or age of the prospective consumer;

12 (4) provides to the prospective consumer a notice that
13 meets the requirements of subsection (b);

14 (5) receives payment for the delivery sale from the
15 prospective consumer by a credit or debit card that has
16 been issued in such consumer's name, or by a check or other
17 written instrument in such consumer's name; however, no
18 money order or cash payment shall be received or permitted
19 and the seller shall submit to each credit card acquiring
20 company with which it has credit card sales identification
21 information in an appropriate form and format so that the
22 words "tobacco product" may be printed in the purchaser's
23 credit card statement when a purchase of a cigarette or
24 electronic cigarette is made by credit card payment; and

25 (6) ensures that the shipping package is delivered to
26 the same address as is shown on the government-issued

1 identification or contained in the commercially available
2 database. No delivery described under this Section shall
3 be permitted to any post office box.

4 (b) The notice required under this Section shall include:

5 (1) a statement that cigarette and electronic
6 cigarette sales to consumers below 21 years of age are
7 illegal;

8 (2) a statement that sales of cigarettes and
9 electronic cigarettes are restricted to those consumers
10 who provide verifiable proof of age in accordance with
11 subsection (a);

12 (3) a statement that cigarette or electronic cigarette
13 sales are subject to tax under Section 2 of the Cigarette
14 Tax Act ~~(35 ILCS 130/2)~~, Section 2 of the Cigarette Use Tax
15 Act, ~~and~~ Section 3 of the Use Tax Act, and Section 10-10 of
16 the Tobacco Products Tax Act of 1995 and an explanation of
17 how the correct tax has been, or is to be, paid with
18 respect to such delivery sale.

19 (c) A statement meets the requirement of this Section if:

20 (1) the statement is clear and conspicuous;

21 (2) the statement is contained in a printed box set
22 apart from the other contents of the communication;

23 (3) the statement is printed in bold, capital letters;

24 (4) the statement is printed with a degree of color
25 contrast between the background and the printed statement
26 that is no less than the color contrast between the

1 background and the largest text used in the communication;
2 and

3 (5) for any printed material delivered by electronic
4 means, the statement appears at both the top and the
5 bottom of the electronic mail message or both the top and
6 the bottom of the Internet website homepage.

7 (d) Each person, other than a delivery service, who mails,
8 ships, or otherwise causes to be delivered a shipping package
9 in connection with a delivery sale shall:

10 (1) include as part of the shipping documents a clear
11 and conspicuous statement stating: "Cigarettes or
12 Electronic Cigarettes: Illinois Law Prohibits Shipping to
13 Individuals Under 21 and Requires the Payment of All
14 Applicable Taxes";

15 (2) use a method of mailing, shipping, or delivery
16 that requires a signature before the shipping package is
17 released to the consumer; and

18 (3) ensure that the shipping package is not delivered
19 to any post office box.

20 (Source: P.A. 101-2, eff. 7-1-19; revised 4-29-19.)

21 (720 ILCS 678/8)

22 Sec. 8. Registration and reporting requirements to prevent
23 delivery sales to persons under 21 years of age.

24 (a) Not later than the 15th day of each month, each person
25 making a delivery sale during the previous calendar month

1 shall file a report with the Department containing the
2 following information:

3 (1) the seller's name, trade name, and the address of
4 such person's principal place of business and any other
5 place of business;

6 (2) the name and address of the consumer to whom such
7 delivery sale was made;

8 (3) the brand style or brand styles of the cigarettes
9 or electronic cigarettes that were sold in such delivery
10 sale;

11 (4) the quantity of cigarettes that were sold in such
12 delivery sale;

13 (5) an indication of whether or not the cigarettes or
14 electronic cigarettes sold in the delivery sale bore a tax
15 stamp evidencing payment of the tax under Section 2 of the
16 Cigarette Tax Act ~~(35 ILCS 130/2)~~; and

17 (6) such other information the Department may require.

18 (b) Each person engaged in business within this State who
19 makes an out-of-state sale shall, for each individual sale,
20 submit to the appropriate tax official of the state in which
21 the consumer is located the information required in subsection
22 (a).

23 (c) Any person that satisfies the requirements of 15
24 U.S.C. Section 376 shall be deemed to satisfy the requirements
25 of subsections (a) and (b).

26 (d) The Department is authorized to disclose to the

1 Attorney General any information received under this title and
2 requested by the Attorney General. The Department and the
3 Attorney General shall share with each other the information
4 received under this title and may share the information with
5 other federal, State, or local agencies for purposes of
6 enforcement of this title or the laws of the federal
7 government or of other states.

8 (e) This Section shall not be construed to impose
9 liability upon any delivery service, or officers or employees
10 thereof, when acting within the scope of business of the
11 delivery service.

12 (f) The Department may establish procedures requiring
13 electronic transmission of the information required by this
14 Section directly to the Department on forms prescribed and
15 furnished by the Department.

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

17 (720 ILCS 678/10)

18 Sec. 10. Violation.

19 (a) A person who violates subsection (a), (b), or (c) of
20 Section 5 or Section 6, 7, 8, or 9 is guilty of a Class A
21 misdemeanor. A second or subsequent violation of subsection
22 (a), (b), or (c) of Section 5 or Section 6, 7, 8, or 9 is a
23 Class 4 felony.

24 (b) The Department of Revenue shall impose a civil penalty
25 not to exceed \$5,000 on any person who violates subsection

1 (a), (b), or (c) of Section 5 or Section 6, 7, 8, or 9. The
2 Department of Revenue shall impose a civil penalty not to
3 exceed \$5,000 on any person engaged in the business of selling
4 cigarettes or electronic cigarettes who ships or causes to be
5 shipped any such cigarettes or electronic cigarettes to any
6 person in this State in violation of subsection (d) of Section
7 5. Civil penalties imposed and collected by the Department
8 shall be deposited into the Tax Compliance and Administration
9 Fund.

10 (c) All cigarettes or electronic cigarettes sold or
11 attempted to be sold in a delivery sale that does not meet the
12 requirements of this Act shall be forfeited to the State. All
13 cigarettes or electronic cigarettes forfeited to this State
14 under this Act shall be destroyed or maintained and used in an
15 undercover capacity. The Department may, prior to any
16 destruction of cigarettes or electronic cigarettes, permit the
17 true holder of the trademark rights in the cigarette or
18 electronic cigarette brand to inspect such contraband
19 cigarettes or electronic cigarettes, in order to assist the
20 Department in any investigation regarding such cigarettes or
21 electronic cigarettes.

22 (d) Any person aggrieved by any decision of the Department
23 of Revenue may, within 60 days after notice of that decision,
24 protest in writing and request a hearing. The Department of
25 Revenue shall give notice to the person of the time and place
26 for the hearing and shall hold a hearing before it issues a

1 final administrative decision. Absent a written protest within
2 60 days, the Department's decision shall become final without
3 any further determination made or notice given.

4 (e) The penalties provided for in this Section are in
5 addition to any other penalties provided for by law.

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

7 (720 ILCS 678/20)

8 Sec. 20. Tip line.

9 (a) Not later than 120 days after January 1, 2010 (the
10 effective date of Public Act 95-1053 ~~this amendatory Act of~~
11 ~~the 95th General Assembly~~), the Department shall establish,
12 publicize, and maintain a toll-free telephone number to
13 receive information related to the sale and delivery of
14 contraband cigarettes or electronic cigarettes.

15 (b) The Attorney General may pay a reward of up to \$5,000
16 to any person who furnishes information leading to the
17 Department's collection of excise taxes imposed upon delivery
18 sales which otherwise would not have been collected but for
19 the information provided by the person.

20 (Source: P.A. 95-1053, eff. 1-1-10.)

21 Section 97. Severability. If any provision of this Act or
22 its application to any person or circumstance is held invalid,
23 the invalidity of that provision or application does not
24 affect other provisions or applications of this Act that can

1 be given effect without the invalid provision or application.

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