



Sen. Julie A. Morrison

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1 AMENDMENT TO SENATE BILL 512

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 512 by replacing  
3 everything after the enacting clause with the following:

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

1 acquire electronic cigarettes for personal use.

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

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

8 "Electronic cigarette" means:

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

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

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

17 "Electronic cigarette" includes, but is not limited to,  
18 any electronic nicotine delivery system, electronic cigar,  
19 electronic cigarillo, electronic pipe, electronic hookah, vape  
20 pen, or similar product or device, and any component, part, or  
21 accessory of a device used during the operation of the device  
22 even if the part or accessory was sold separately. "Electronic  
23 cigarette" does not include: cigarettes, as defined in Section  
24 1 of the Cigarette Tax Act; any product approved by the United  
25 States Food and Drug Administration for sale as a smoking  
26 cessation product, a tobacco dependence product, or for other

1 medical purposes that is marketed and sold solely for that  
2 approved purpose; any asthma inhaler prescribed by a physician  
3 for that condition that is marketed and sold solely for that  
4 approved purpose; any device that meets the definition of  
5 cannabis paraphernalia under Section 1-10 of the Cannabis  
6 Regulation and Tax Act; or any cannabis product sold by a  
7 dispensing organization pursuant to the Cannabis Regulation  
8 and Tax Act or the Compassionate Use of Medical Cannabis  
9 Program Act.

10 "Manufacturer" means any person, wherever resident or  
11 located, who manufactures and sells tobacco products.

12 "Manufacturer" does not include a person who makes,  
13 manufactures, or fabricates tobacco products as a part of a  
14 correctional industries program for sale to persons  
15 incarcerated in penal institutions or resident patients of a  
16 State-operated mental health facility.

17 "Modified risk tobacco product" means any tobacco product  
18 that is sold or distributed to reduce harm or the risk of  
19 tobacco related disease associated with commercially marketed  
20 tobacco products.

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

24 "Retailer" means a person who engages in this State in the  
25 sale of or offers for sale electronic cigarettes for use or  
26 consumption and not for resale in any form. "Retailer"

1 includes a retailer as defined in Section 1 of the Cigarette  
2 Tax Act and Section 10-5 of the Tobacco Products Tax Act of  
3 1995.

4 "Secondary distributor" has the same meaning as defined in  
5 Section 1 of the Cigarette Tax Act and Section 1 of the  
6 Cigarette Use Tax Act.

7 "Tobacco product" has the same meaning as defined in  
8 Section 10-5 of the Tobacco Products Tax Act of 1995.

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

20 Section 10. Enforcement; rulemaking.

21 (a) The Department of Agriculture, Department of Revenue,  
22 Department of Public Health, and Illinois State Police shall  
23 have equal and joint authority to administer and enforce this  
24 Act and may adopt rules for the purpose of administering and  
25 enforcing this Act.

1           (b) The Department of Agriculture, Department of Revenue,  
2 Department of Public Health, and Illinois State Police may  
3 inspect any business that sells, manufactures, transports, or  
4 distributes electronic cigarettes in the State to ensure  
5 compliance with this Act.

6           Section 15. Prohibitions.

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

8           (1) To sell or distribute in this State; to acquire,  
9 hold, own, possess, or transport, for sale or distribution  
10 in this State; or to import, or cause to be imported into  
11 this State for sale or distribution in this State:

12           (A) any electronic cigarette with packaging that:

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

21           (ii) does not comply with:

22           (I) all requirements imposed by or  
23 pursuant to federal law regarding warnings and  
24 other information on packages of electronic  
25 cigarettes manufactured, packaged, or imported

1                   for sale, distribution, or use in the United  
2                   States; and

3                   (II) all federal trademark and copyright  
4                   laws; and

5                   (B) any electronic cigarette that the person  
6                   otherwise knows or has reason to know the manufacturer  
7                   did not intend to be sold, distributed, or used in the  
8                   United States.

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

14                  (3) To affix any stamp required under this Act to the  
15                  packaging of any electronic cigarettes described in  
16                  subparagraph (A) of paragraph (1) or altered in violation  
17                  of subparagraph (A) of paragraph (1).

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

20                   (A) it consists in whole or in part of any filthy,  
21                   putrid, or decomposed substance, or is otherwise  
22                   contaminated by any added poisonous or deleterious  
23                   substance that may render the product injurious to  
24                   health;

25                   (B) it is held or packaged in containers composed,  
26                   in whole or in part, of any poisonous or deleterious

1 substance that may render the contents injurious to  
2 health; or

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

7 Electronic cigarettes first sold prior to August 8, 2016  
8 and for which a premarket tobacco product application was  
9 submitted to the U.S. Food and Drug Administration by  
10 September 9, 2020 shall not be deemed to be in violation of  
11 this subsection.

12 (b) A distributor, secondary distributor, retailer, or  
13 person who violates this Section shall be guilty of a Class 4  
14 felony.

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

- 17 (1) polyethylene glycol (PEG);  
18 (2) vitamin E acetate; or  
19 (3) medium chain triglycerides (MCT oil).

20 Section 25. Advertising.

21 (a) A manufacturer, distributor, or retailer may not  
22 advertise, market, or promote an electronic cigarette as a  
23 modified risk tobacco product unless it has been designated as  
24 a modified risk tobacco product by the United States Food and

1 Drug Administration.

2 (b) A manufacturer, distributor, or retailer may not  
3 advertise, market, or promote or advertise an electronic  
4 cigarette as providing smoking cessation benefits to consumers  
5 unless it has approval from the United States Food and Drug  
6 Administration to market its electronic cigarette as a medical  
7 product for such purpose.

8 (c) A manufacturer, distributor, or retailer may not  
9 advertise, market, or promote an electronic cigarette in a  
10 manner that includes fraudulent or misleading terms or  
11 statements.

12 (d) A manufacturer, distributor, or retailer may not  
13 advertise, market, or promote an electronic cigarette in a  
14 manner that:

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

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

19 (A) cartoons;

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

22 (C) a video game, movie, video, or animated  
23 television show known to appeal primarily to persons  
24 under 21 years of age.

25 Section 30. Manufacturer requirements. A manufacturer



1 shall ensure that the label on an electronic cigarette  
2 container meets the nicotine addictiveness warning statement  
3 requirements under 21 CFR 1143.3.

4 Section 35. Violations.

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

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

1 capacity. Such electronic cigarettes shall be deemed  
2 contraband whether the violation of this Act is knowing or  
3 otherwise.

4 (c) The Attorney General may enforce violations of Section  
5 15 or 25 of this Act as an unlawful practice under the Consumer  
6 Fraud and Deceptive Business Practices Act.

7 Section 40. The Prevention of Tobacco Use by Persons under  
8 21 Years of Age and Sale and Distribution of Tobacco Products  
9 Act is amended by changing Section 1 as follows:

10 (720 ILCS 675/1) (from Ch. 23, par. 2357)

11 Sec. 1. Prohibition on sale of tobacco products,  
12 electronic cigarettes, and alternative nicotine products to  
13 persons under 21 years of age; prohibition on the distribution  
14 of tobacco product samples, electronic cigarette samples, and  
15 alternative nicotine product samples to any person; use of  
16 identification cards; vending machines; lunch wagons;  
17 out-of-package sales.

18 (a) No person under 21 years of age shall buy any tobacco  
19 product, electronic cigarette, or alternative nicotine  
20 product. No person shall sell, buy for, distribute samples of  
21 or furnish any tobacco product, electronic cigarette, or any  
22 alternative nicotine product to any person under 21 years of  
23 age.

24 (a-5) No person under 16 years of age may sell any tobacco

1 product, electronic cigarette, or alternative nicotine product  
2 at a retail establishment selling tobacco products, electronic  
3 cigarettes, or alternative nicotine products. This subsection  
4 does not apply to a sales clerk in a family-owned business  
5 which can prove that the sales clerk is in fact a son or  
6 daughter of the owner.

7 (a-5.1) Before selling, offering for sale, giving, or  
8 furnishing a tobacco product, electronic cigarette, or  
9 alternative nicotine product to another person, the person  
10 selling, offering for sale, giving, or furnishing the tobacco  
11 product, electronic cigarette, or alternative nicotine product  
12 shall verify that the person is at least 21 years of age by:

13 (1) examining from any person that appears to be under  
14 30 years of age a government-issued photographic  
15 identification that establishes the person to be 21 years  
16 of age or older; or

17 (2) for sales of tobacco products, electronic  
18 cigarettes, or alternative nicotine products made through  
19 the Internet or other remote sales methods, performing an  
20 age verification through an independent, third party age  
21 verification service that compares information available  
22 from public records to the personal information entered by  
23 the person during the ordering process that establishes  
24 the person is 21 years of age or older.

25 (a-6) No person under 21 years of age in the furtherance or  
26 facilitation of obtaining any tobacco product, electronic

1 cigarette, or alternative nicotine product shall display or  
2 use a false or forged identification card or transfer, alter,  
3 or deface an identification card.

4 (a-7) (Blank).

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

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

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

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

24 "Alternative nicotine product" means a product or  
25 device not consisting of or containing tobacco that  
26 provides for the ingestion into the body of nicotine,

1 whether by chewing, smoking, absorbing, dissolving,  
2 inhaling, snorting, sniffing, or by any other means.

3 "Alternative nicotine product" does not include:  
4 cigarettes as defined in Section 1 of the Cigarette Tax  
5 Act and tobacco products as defined in Section 10-5 of the  
6 Tobacco Products Tax Act of 1995; tobacco product and  
7 electronic cigarette as defined in this Section; or any  
8 product approved by the United States Food and Drug  
9 Administration for sale as a tobacco cessation product, as  
10 a tobacco dependence product, or for other medical  
11 purposes, and is being marketed and sold solely for that  
12 approved purpose.

13 "Electronic cigarette" means:

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

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

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

22 "Electronic cigarette" includes, but is not limited  
23 to, any electronic nicotine delivery system, electronic  
24 cigar, electronic cigarillo, electronic pipe, electronic  
25 hookah, vape pen, or similar product or device, ~~and~~ any  
26 components or parts that can be used to build the product

1       or device, and any component, part, or accessory of a  
2       device used during the operation of the device, even if  
3       the part or accessory was sold separately. "Electronic  
4       cigarette" does not include: cigarettes as defined in  
5       Section 1 of the Cigarette Tax Act ~~and tobacco products as~~  
6       ~~defined in Section 10 5 of the Tobacco Products Tax Act of~~  
7       ~~1995~~; tobacco product and alternative nicotine product as  
8       defined in this Section; any product approved by the  
9       United States Food and Drug Administration for sale as a  
10      tobacco cessation product, as a tobacco dependence  
11      product, or for other medical purposes, and is being  
12      marketed and sold solely for that approved purpose; any  
13      asthma inhaler prescribed by a physician for that  
14      condition and is being marketed and sold solely for that  
15      approved purpose; any device that meets the definition of  
16      cannabis paraphernalia under Section 1-10 of the Cannabis  
17      Regulation and Tax Act; or any cannabis therapeutic  
18      product sold by a dispensing organization pursuant to the  
19      Cannabis Regulation and Tax Act or approved for use under  
20      the Compassionate Use of Medical Cannabis ~~Pilot~~ Program  
21      Act.

22               "Lunch wagon" means a mobile vehicle designed and  
23      constructed to transport food and from which food is sold  
24      to the general public.

25               "Nicotine" means any form of the chemical nicotine,  
26      including any salt or complex, regardless of whether the

1 chemical is naturally or synthetically derived.

2 "Tobacco product" means any product containing or made  
3 from tobacco that is intended for human consumption,  
4 whether smoked, heated, chewed, absorbed, dissolved,  
5 inhaled, snorted, sniffed, or ingested by any other means,  
6 including, but not limited to, cigarettes, cigars, little  
7 cigars, chewing tobacco, pipe tobacco, snuff, snus, and  
8 any other smokeless tobacco product which contains tobacco  
9 that is finely cut, ground, powdered, or leaf and intended  
10 to be placed in the oral cavity. "Tobacco product"  
11 includes any component, part, or accessory of a tobacco  
12 product, whether or not sold separately. "Tobacco product"  
13 does not include: an ~~electronic cigarette~~ and alternative  
14 nicotine product as defined in this Section; or any  
15 product that has been approved by the United States Food  
16 and Drug Administration for sale as a tobacco cessation  
17 product, as a tobacco dependence product, or for other  
18 medical purposes, and is being marketed and sold solely  
19 for that approved purpose.

20 (b) Tobacco products, electronic cigarettes, and  
21 alternative nicotine products may be sold through a vending  
22 machine only if such tobacco products, electronic cigarettes,  
23 and alternative nicotine products are not placed together with  
24 any non-tobacco product, other than matches, in the vending  
25 machine and the vending machine is in any of the following  
26 locations:

1 (1) (Blank).

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

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

7 (4) (Blank).

8 (5) (Blank).

9 (c) (Blank).

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

16 (e) It is not a violation of this Act for a person under 21  
17 years of age to purchase a tobacco product, electronic  
18 cigarette, or alternative nicotine product if the person under  
19 the age of 21 purchases or is given the tobacco product,  
20 electronic cigarette, or alternative nicotine product in any  
21 of its forms from a retail seller of tobacco products,  
22 electronic cigarettes, or alternative nicotine products or an  
23 employee of the retail seller pursuant to a plan or action to  
24 investigate, patrol, or otherwise conduct a "sting operation"  
25 or enforcement action against a retail seller of tobacco  
26 products, electronic cigarettes, or alternative nicotine



1 products or a person employed by the retail seller of tobacco  
2 products, electronic cigarettes, or alternative nicotine  
3 products or on any premises authorized to sell tobacco  
4 products, electronic cigarettes, or alternative nicotine  
5 products to determine if tobacco products, electronic  
6 cigarettes, or alternative nicotine products are being sold or  
7 given to persons under 21 years of age if the "sting operation"  
8 or enforcement action is approved by, conducted by, or  
9 conducted on behalf of the Department of State Police, the  
10 county sheriff, a municipal police department, the Department  
11 of Revenue, the Department of Public Health, or a local health  
12 department. The results of any sting operation or enforcement  
13 action, including the name of the clerk, shall be provided to  
14 the retail seller within 7 business days.

15 (f) No person shall honor or accept any discount, coupon,  
16 or other benefit or reduction in price that is inconsistent  
17 with 21 CFR 1140, subsequent United States Food and Drug  
18 Administration industry guidance, or any rules adopted under  
19 21 CFR 1140.

20 (g) Any peace officer or duly authorized member of the  
21 Department of Revenue or the Department of Public Health, upon  
22 discovering a violation of subsection (a), (a-5), (a-5.1),  
23 (a-8), (b), or (d) of this Section or a violation of the  
24 Preventing Youth Vaping Act, may seize any tobacco products or  
25 electronic cigarettes of the specific type involved in that  
26 violation that are located at that place of business. The

1 tobacco products or electronic cigarettes so seized are  
2 subject to confiscation and forfeiture.

3 (h) If, within 60 days after any seizure under subsection  
4 (g), a person having any property interest in the seized  
5 property is charged with an offense under this Section or a  
6 violation of the Preventing Youth Vaping Act, the court that  
7 renders judgment upon the charge shall, within 30 days after  
8 the judgment, conduct a forfeiture hearing to determine  
9 whether the seized tobacco products or electronic cigarettes  
10 were part of the inventory located at the place of business  
11 when a violation of subsection (a), (a-5), (a-5.1), (a-8),  
12 (b), or (d) of this Section or a violation of the Preventing  
13 Youth Vaping Act occurred and whether any seized tobacco  
14 products or electronic cigarettes were of a type involved in  
15 that violation. The hearing shall be commenced by a written  
16 petition by the State, which shall include material  
17 allegations of fact, the name and address of every person  
18 determined by the State to have any property interest in the  
19 seized property, a representation that written notice of the  
20 date, time, and place of the hearing has been mailed to every  
21 such person by certified mail at least 10 days before the date,  
22 and a request for forfeiture. Every such person may appear as a  
23 party and present evidence at the hearing. The quantum of  
24 proof required shall be a preponderance of the evidence, and  
25 the burden of proof shall be on the State. If the court  
26 determines that the seized property was subject to forfeiture,

1 an order of forfeiture and disposition of the seized property  
2 shall be entered and the property shall be received by the  
3 prosecuting office, who shall affect its destruction.

4 (i) If a seizure under subsection (g) is not followed by a  
5 charge under subsection (a), (a-5), (a-5.1), (a-8), (b), or  
6 (d) of this Section or under the Preventing Youth Vaping Act,  
7 or if the prosecution of the charge is permanently terminated  
8 or indefinitely discontinued without any judgment of  
9 conviction or acquittal:

10 (1) the prosecuting office may commence in the circuit  
11 court an in rem proceeding for the forfeiture and  
12 destruction of any seized tobacco products or electronic  
13 cigarettes; and

14 (2) any person having any property interest in the  
15 seized tobacco products or electronic cigarettes may  
16 commence separate civil proceedings in the manner provided  
17 by law.

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

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

22 (720 ILCS 678/1)

23 Sec. 1. Short title. This Act may be cited as the  
24 Prevention of Cigarette and Electronic Cigarette Sales to

1 Persons under 21 Years of Age Act.

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

3 (720 ILCS 678/2)

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

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

11 "Clear and conspicuous statement" means the statement is  
12 of sufficient type size to be clearly readable by the  
13 recipient of the communication.

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

16 "Delivery sale" means any sale of cigarettes or electronic  
17 cigarettes to a consumer if:

18 (a) the consumer submits the order for such sale by  
19 means of a telephone or other method of voice  
20 transmission, the mails, or the Internet or other online  
21 service, or the seller is otherwise not in the physical  
22 presence of the buyer when the request for purchase or  
23 order is made; or

24 (b) the cigarettes or electronic cigarettes are  
25 delivered by use of a common carrier, private delivery

1 service, or the mails, or the seller is not in the physical  
2 presence of the buyer when the buyer obtains possession of  
3 the cigarettes or electronic cigarettes.

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

7 "Department" means the Department of Revenue.

8 "Electronic cigarette" means:

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

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

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

17 "Electronic cigarette" includes, but is not limited to,  
18 any electronic nicotine delivery system, electronic cigar,  
19 electronic cigarillo, electronic pipe, electronic hookah, vape  
20 pen, or similar product or device, and any component, part, or  
21 accessory of a device used during the operation of the device,  
22 even if the part or accessory was sold separately. "Electronic  
23 cigarette" does not include: cigarettes, as defined in Section  
24 1 of the Cigarette Tax Act; any product approved by the United  
25 States Food and Drug Administration for sale as a tobacco  
26 cessation product, a tobacco dependence product, or for other

1 medical purposes that is marketed and sold solely for that  
2 approved purpose; any asthma inhaler prescribed by a physician  
3 for that condition that is marketed and sold solely for that  
4 approved purpose; any device that meets the definition of  
5 cannabis paraphernalia under Section 1-10 of the Cannabis  
6 Regulation and Tax Act; or any cannabis product sold by a  
7 dispensing organization pursuant to the Cannabis Regulation  
8 and Tax Act or the Compassionate Use of Medical Cannabis  
9 Program Act.

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

15 "Mails" or "mailing" mean the shipment of cigarettes or  
16 electronic cigarettes through the United States Postal  
17 Service.

18 "Out-of-state sale" means a sale of cigarettes or  
19 electronic cigarettes to a consumer located outside of this  
20 State where the consumer submits the order for such sale by  
21 means of a telephonic or other method of voice transmission,  
22 the mails or any other delivery service, facsimile  
23 transmission, or the Internet or other online service and  
24 where the cigarettes or electronic cigarettes are delivered by  
25 use of the mails or other delivery service.

26 "Person" means any individual, corporation, partnership,

1 limited liability company, association, or other organization  
2 that engages in any for-profit or not-for-profit activities.

3 "Shipping package" means a container in which packs or  
4 cartons of cigarettes or electronic cigarettes are shipped in  
5 connection with a delivery sale.

6 "Shipping documents" means bills of lading, air bills, or  
7 any other documents used to evidence the undertaking by a  
8 delivery service to deliver letters, packages, or other  
9 containers.

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

11 (720 ILCS 678/5)

12 Sec. 5. Unlawful shipment or transportation of cigarettes  
13 or electronic cigarettes.

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

19 (1) is licensed as a distributor or, in the case of  
20 electronic cigarettes, a retailer, under ~~either~~ the  
21 Cigarette Tax Act, ~~or~~ the Cigarette Use Tax Act, or the  
22 Tobacco Products Tax Act of 1995; or delivers the  
23 cigarettes or electronic cigarettes to a distributor, or  
24 in the case of electronic cigarettes, a retailer, licensed  
25 under ~~either~~ the Cigarette Tax Act, ~~or~~ the Cigarette Use

1 Tax Act, or the Tobacco Products Tax Act of 1995; or

2 (2) ships them to an export warehouse proprietor  
3 pursuant to Chapter 52 of the Internal Revenue Code, or an  
4 operator of a customs bonded warehouse pursuant to Section  
5 1311 or 1555 of Title 19 of the United States Code.

6 For purposes of this subsection (a), a person is a  
7 licensed distributor if the person's name appears on a list of  
8 licensed distributors published by the Illinois Department of  
9 Revenue. The term cigarette has the same meaning as defined in  
10 Section 1 of the Cigarette Tax Act and Section 1 of the  
11 Cigarette Use Tax Act. Nothing in this Act prohibits a person  
12 licensed as a distributor under the Cigarette Tax Act, ~~or~~ the  
13 Cigarette Use Tax Act, or the Tobacco Products Tax Act of 1995  
14 from shipping or causing to be shipped any cigarettes or  
15 electronic cigarettes to a registered retailer under the  
16 Retailers' Occupation Tax Act provided the cigarette tax, ~~or~~  
17 cigarette use tax, or tobacco product tax has been paid.

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

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



1 or electronic cigarettes have been received from a person  
2 described in paragraph (a)(1). Common or contract carriers may  
3 make deliveries of cigarettes or electronic cigarettes to  
4 licensed distributors described in paragraph (a)(1) of this  
5 Section. Nothing in this subsection (b) shall be construed to  
6 prohibit a 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 or electronic cigarettes to persons  
11 other than those described in paragraph (a)(1) of this Section  
12 without first 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  
15 includes a reliable confirmation that the purchaser is at  
16 least 21 years of age; that the cigarettes or electronic  
17 cigarettes purchased are not intended for consumption by an  
18 individual who is younger than 21 years of age; and a written  
19 statement signed by the purchaser that certifies the  
20 purchaser's address and that the purchaser is at least 21  
21 years of age. The statement shall also confirm: (1) that the  
22 purchaser understands that signing another person's name to  
23 the certification is illegal; (2) that the sale of cigarettes  
24 to individuals under 21 years of age is illegal; and (3) that  
25 the purchase of cigarettes by individuals under 21 years of  
26 age is illegal under the laws of Illinois.

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

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

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

20 (720 ILCS 678/6)

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

23 (a) No person shall make a delivery sale of cigarettes or  
24 electronic cigarettes to any individual who is under 21 years  
25 of age.

1 (b) Each person accepting a purchase order for a delivery  
2 sale shall comply with the provisions of this Act and all other  
3 laws of this State generally applicable to sales of cigarettes  
4 or electronic cigarettes that occur entirely within this  
5 State.

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

7 (720 ILCS 678/7)

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

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

13 (1) prior to the first delivery sale to the  
14 prospective consumer, obtains from the prospective  
15 consumer a written certification which includes a  
16 statement signed by the prospective consumer that  
17 certifies:

18 (A) the prospective consumer's current address;

19 and

20 (B) that the prospective consumer is at least the  
21 legal minimum age;

22 (2) informs, in writing, such prospective consumer  
23 that:

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

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

3 (C) the purchase of cigarettes or electronic  
4 cigarettes by individuals under 21 years of age is  
5 illegal; and

6 (D) the name and identity of the prospective  
7 consumer may be reported to the state of the  
8 consumer's current address under the Act of October  
9 19, 1949 (15 U.S.C. § 375, et seq.), commonly known as  
10 the Jenkins Act;

11 (3) makes a good faith effort to verify the date of  
12 birth of the prospective consumer provided pursuant to  
13 this Section by:

14 (A) comparing the date of birth against a  
15 commercially available database; or

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

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

21 (5) receives payment for the delivery sale from the  
22 prospective consumer by a credit or debit card that has  
23 been issued in such consumer's name, or by a check or other  
24 written instrument in such consumer's name; however, no  
25 money order or cash payment shall be received or permitted  
26 and the seller shall submit to each credit card acquiring

1       company with which it has credit card sales identification  
2       information in an appropriate form and format so that the  
3       words "tobacco product" may be printed in the purchaser's  
4       credit card statement when a purchase of a cigarette or  
5       electronic cigarette is made by credit card payment; and

6           (6) ensures that the shipping package is delivered to  
7       the same address as is shown on the government-issued  
8       identification or contained in the commercially available  
9       database. No delivery described under this Section shall  
10       be permitted to any post office box.

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

12           (1) a statement that cigarette and electronic  
13       cigarette sales to consumers below 21 years of age are  
14       illegal;

15           (2) a statement that sales of cigarettes and  
16       electronic cigarettes are restricted to those consumers  
17       who provide verifiable proof of age in accordance with  
18       subsection (a);

19           (3) a statement that cigarette or electronic cigarette  
20       sales are subject to tax under Section 2 of the Cigarette  
21       Tax Act ~~(35 ILCS 130/2)~~, Section 2 of the Cigarette Use Tax  
22       Act, ~~and~~ Section 3 of the Use Tax Act, and Section 10-10 of  
23       the Tobacco Products Tax Act of 1995 and an explanation of  
24       how the correct tax has been, or is to be, paid with  
25       respect to such delivery sale.

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

1 (1) the statement is clear and conspicuous;

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

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

5 (4) the statement is printed with a degree of color  
6 contrast between the background and the printed statement  
7 that is no less than the color contrast between the  
8 background and the largest text used in the communication;  
9 and

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

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

17 (1) include as part of the shipping documents a clear  
18 and conspicuous statement stating: "Cigarettes or  
19 Electronic Cigarettes: Illinois Law Prohibits Shipping to  
20 Individuals Under 21 and Requires the Payment of All  
21 Applicable Taxes";

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

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

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

2 (720 ILCS 678/8)

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

5 (a) Not later than the 15th day of each month, each person  
6 making a delivery sale during the previous calendar month  
7 shall file a report with the Department containing the  
8 following information:

9 (1) the seller's name, trade name, and the address of  
10 such person's principal place of business and any other  
11 place of business;

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

14 (3) the brand style or brand styles of the cigarettes  
15 or electronic cigarettes that were sold in such delivery  
16 sale;

17 (4) the quantity of cigarettes that were sold in such  
18 delivery sale;

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

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

24 (b) Each person engaged in business within this State who  
25 makes an out-of-state sale shall, for each individual sale,

1 submit to the appropriate tax official of the state in which  
2 the consumer is located the information required in subsection  
3 (a).

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

7 (d) The Department is authorized to disclose to the  
8 Attorney General any information received under this title and  
9 requested by the Attorney General. The Department and the  
10 Attorney General shall share with each other the information  
11 received under this title and may share the information with  
12 other federal, State, or local agencies for purposes of  
13 enforcement of this title or the laws of the federal  
14 government or of other states.

15 (e) This Section shall not be construed to impose  
16 liability upon any delivery service, or officers or employees  
17 thereof, when acting within the scope of business of the  
18 delivery service.

19 (f) The Department may establish procedures requiring  
20 electronic transmission of the information required by this  
21 Section directly to the Department on forms prescribed and  
22 furnished by the Department.

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

24 (720 ILCS 678/10)

25 Sec. 10. Violation.



1 (a) A person who violates subsection (a), (b), or (c) of  
2 Section 5 or Section 6, 7, 8, or 9 is guilty of a Class A  
3 misdemeanor. A second or subsequent violation of subsection  
4 (a), (b), or (c) of Section 5 or Section 6, 7, 8, or 9 is a  
5 Class 4 felony.

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

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

1 Department in any investigation regarding such cigarettes or  
2 electronic cigarettes.

3 (d) Any person aggrieved by any decision of the Department  
4 of Revenue may, within 60 days after notice of that decision,  
5 protest in writing and request a hearing. The Department of  
6 Revenue shall give notice to the person of the time and place  
7 for the hearing and shall hold a hearing before it issues a  
8 final administrative decision. Absent a written protest within  
9 60 days, the Department's decision shall become final without  
10 any further determination made or notice given.

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

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

14 (720 ILCS 678/20)

15 Sec. 20. Tip line.

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

22 (b) The Attorney General may pay a reward of up to \$5,000  
23 to any person who furnishes information leading to the  
24 Department's collection of excise taxes imposed upon delivery  
25 sales which otherwise would not have been collected but for

1 the information provided by the person.

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

3 Section 97. Severability. If any provision of this Act or  
4 its application to any person or circumstance is held invalid,  
5 the invalidity of that provision or application does not  
6 affect other provisions or applications of this Act that can  
7 be given effect without the invalid provision or application.

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