



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5108

Introduced 2/8/2024, by Rep. Robert "Bob" Rita

SYNOPSIS AS INTRODUCED:

35 ILCS 143/10-5
35 ILCS 143/10-10
35 ILCS 143/10-24 new
35 ILCS 143/10-25
35 ILCS 143/10-30
35 ILCS 143/10-35
35 ILCS 143/10-37
35 ILCS 143/10-38
35 ILCS 143/10-45
35 ILCS 143/10-50

Amends the Tobacco Products Tax Act of 1995. Provides that remote retail sellers that meet certain sales criteria are required to collect and remit the tax under the Act. Provides that, beginning on January 1, 2025, the tax under the Act is 36% of (i) the actual cost paid by a distributor or remote retail seller for the stock keeping unit or (ii) if documentation of the actual cost is not available due to matters beyond the distributor or remote retail seller's control, the actual cost list paid by the distributor or remote retail seller for the stock keeping unit. Effective January 1, 2025.

LRB103 37757 HLH 67885 b

1 AN ACT concerning revenue.

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

4 Section 5. The Tobacco Products Tax Act of 1995 is amended
5 by changing Sections 10-5, 10-10, 10-25, 10-30, 10-35, 10-37,
6 10-38, 10-45, and 10-50 and by adding Section 10-24 as
7 follows:

8 (35 ILCS 143/10-5)

9 Sec. 10-5. Definitions. For purposes of this Act:

10 "Actual cost" means the actual price paid for each
11 individual SKU by a distributor or a remote retail seller.

12 "Actual cost list" means the average actual price paid by
13 a distributor or a remote retail seller to a manufacturer,
14 wholesaler, or distributor for a SKU during the calendar year
15 immediately preceding the calendar year in which the sale
16 occurs.

17 "Business" means any trade, occupation, activity, or
18 enterprise engaged in, at any location whatsoever, for the
19 purpose of selling tobacco products.

20 "Cigar" means any roll of tobacco wrapped in leaf tobacco
21 or in any substance containing tobacco. "Cigar" does not
22 include a little cigar or any roll of tobacco that is
23 classified as a cigarette within the meaning of Section 1 of

1 the Cigarette Tax Act.

2 "Cigarette" has the meaning ascribed to the term in
3 Section 1 of the Cigarette Tax Act.

4 "Contraband little cigar" means:

5 (1) packages of little cigars containing 20 or 25
6 little cigars that do not bear a required tax stamp under
7 this Act;

8 (2) packages of little cigars containing 20 or 25
9 little cigars that bear a fraudulent, imitation, or
10 counterfeit tax stamp;

11 (3) packages of little cigars containing 20 or 25
12 little cigars that are improperly tax stamped, including
13 packages of little cigars that bear only a tax stamp of
14 another state or taxing jurisdiction; or

15 (4) packages of little cigars containing other than 20
16 or 25 little cigars in the possession of a distributor,
17 retailer or wholesaler, unless the distributor, retailer,
18 or wholesaler possesses, or produces within the time frame
19 provided in Section 10-27 or 10-28 of this Act, an invoice
20 from a stamping distributor, distributor, or wholesaler
21 showing that the tax on the packages has been or will be
22 paid.

23 "Consumer" means a person who acquires ownership of
24 tangible personal property, including tobacco products, for
25 use or consumption in this State and not for resale.

26 "Correctional Industries program" means a program run by a

1 State penal institution in which residents of the penal
2 institution produce tobacco products for sale to persons
3 incarcerated in penal institutions or resident patients of a
4 State operated mental health facility.

5 "Department" means the Illinois Department of Revenue.

6 "Distributor" means any of the following:

7 (1) Any manufacturer or wholesaler in this State
8 engaged in the business of selling tobacco products who
9 sells, exchanges, or distributes tobacco products to
10 retailers or consumers in this State.

11 (2) Any manufacturer or wholesaler engaged in the
12 business of selling tobacco products from without this
13 State who sells, exchanges, distributes, ships, or
14 transports tobacco products to retailers or consumers
15 located in this State, so long as that manufacturer or
16 wholesaler has or maintains within this State, directly or
17 by subsidiary, an office, sales house, or other place of
18 business, or any agent or other representative operating
19 within this State under the authority of the person or
20 subsidiary, irrespective of whether the place of business
21 or agent or other representative is located here
22 permanently or temporarily.

23 (3) Any retailer who receives tobacco products on
24 which the tax has not been or will not be paid by another
25 distributor.

26 "Distributor" does not include any person, wherever

1 resident or located, who makes, manufactures, or fabricates
2 tobacco products as part of a Correctional Industries program
3 for sale to residents incarcerated in penal institutions or
4 resident patients of a State operated mental health facility.

5 "Electronic cigarette" means:

6 (1) any device that employs a battery or other
7 mechanism to heat a solution or substance to produce a
8 vapor or aerosol intended for inhalation, except for (A)
9 any device designed solely for use with cannabis that
10 contains a statement on the retail packaging that the
11 device is designed solely for use with cannabis and not
12 for use with tobacco or (B) any device that contains a
13 solution or substance that contains cannabis subject to
14 tax under the Compassionate Use of Medical Cannabis
15 Program Act or the Cannabis Regulation and Tax Act;

16 (2) any cartridge or container of a solution or
17 substance intended to be used with or in the device or to
18 refill the device, except for any cartridge or container
19 of a solution or substance that contains cannabis subject
20 to tax under the Compassionate Use of Medical Cannabis
21 Program Act or the Cannabis Regulation and Tax Act; or

22 (3) any solution or substance, whether or not it
23 contains nicotine, intended for use in the device, except
24 for any solution or substance that contains cannabis
25 subject to tax under the Compassionate Use of Medical
26 Cannabis Program Act or the Cannabis Regulation and Tax

1 Act.

2 The changes made to the definition of "electronic
3 cigarette" by this amendatory Act of the 102nd General
4 Assembly apply on and after June 28, 2019, but no claim for
5 credit or refund is allowed on or after the effective date of
6 this amendatory Act of the 102nd General Assembly for such
7 taxes paid during the period beginning June 28, 2019 and the
8 effective date of this amendatory Act of the 102nd General
9 Assembly.

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 or part
14 that can be used to build the product or device. "Electronic
15 cigarette" does not include: cigarettes, as defined in Section
16 1 of the Cigarette Tax Act; any product approved by the United
17 States Food and Drug Administration for sale as a tobacco
18 cessation product, a tobacco dependence product, or for other
19 medical purposes that is marketed and sold solely for that
20 approved purpose; any asthma inhaler prescribed by a physician
21 for that condition that is marketed and sold solely for that
22 approved purpose; or any therapeutic product approved for use
23 under the Compassionate Use of Medical Cannabis Program Act.

24 "Little cigar" means and includes any roll, made wholly or
25 in part of tobacco, where such roll has an integrated
26 cellulose acetate filter and weighs less than 4 pounds per

1 thousand and the wrapper or cover of which is made in whole or
2 in part of tobacco.

3 "Manufacturer" means any person, wherever resident or
4 located, who manufactures and sells tobacco products, except a
5 person who makes, manufactures, or fabricates tobacco products
6 as a part of a Correctional Industries program for sale to
7 persons incarcerated in penal institutions or resident
8 patients of a State operated mental health facility.

9 Beginning on January 1, 2013, "moist snuff" means any
10 finely cut, ground, or powdered tobacco that is not intended
11 to be smoked, but shall not include any finely cut, ground, or
12 powdered tobacco that is intended to be placed in the nasal
13 cavity.

14 "Person" means any natural individual, firm, partnership,
15 association, joint stock company, joint venture, limited
16 liability company, or public or private corporation, however
17 formed, or a receiver, executor, administrator, trustee,
18 conservator, or other representative appointed by order of any
19 court.

20 "Pipe tobacco" means any tobacco that, because of its
21 appearance, type, packaging, or labeling, is suitable for use
22 in a pipe and is likely to be offered to or purchased by a
23 consumer as tobacco to be smoked in a pipe.

24 "Place of business" means and includes any place where
25 tobacco products are sold or where tobacco products are
26 manufactured, stored, or kept for the purpose of sale or

1 consumption, including any vessel, vehicle, airplane, train,
2 or vending machine.

3 "Remote retail sale" means a sale by a remote retail
4 seller of cigars or pipe tobacco to a consumer in this State
5 when:

6 (1) the buyer submits the order for the sale by means
7 of a telephone or other method of voice transmission, by
8 first class mail, or by using the Internet or other online
9 service, or if the seller is otherwise not in the physical
10 presence of the buyer when the request for purchase or
11 order is made; or

12 (2) the cigars or pipe tobacco are delivered to the
13 buyer by common carrier, private delivery service, or
14 other method of remote delivery, or the seller is not in
15 the physical presence of the buyer when the buyer obtains
16 possession of the cigars or pipe tobacco.

17 "Remote retail seller" means a person located outside of
18 this State who makes remote retail sales of cigars or pipe
19 tobacco, so long as that person does not maintain within this
20 State, directly or by a subsidiary, an office, distribution
21 house, sales house, warehouse, or other place of business, or
22 any agent or other representative operating within this State
23 under the authority of the person or its subsidiary,
24 irrespective of whether the place of business or the agent is
25 located here permanently or temporarily or whether the person
26 or subsidiary is licensed to do business in this State.

1 "Retailer" means any person in this State engaged in the
2 business of selling tobacco products to consumers in this
3 State, regardless of quantity or number of sales.

4 "Sale" means any transfer, exchange, or barter in any
5 manner or by any means whatsoever for a consideration and
6 includes all sales made by persons.

7 "Stamp" or "stamps" mean the indicia required to be
8 affixed on a package of little cigars that evidence payment of
9 the tax on packages of little cigars containing 20 or 25 little
10 cigars under Section 10-10 of this Act. These stamps shall be
11 the same stamps used for cigarettes under the Cigarette Tax
12 Act.

13 "Stamping distributor" means a distributor licensed under
14 this Act and also licensed as a distributor under the
15 Cigarette Tax Act or Cigarette Use Tax Act.

16 "Stock keeping unit" or "SKU" means the unique identifier
17 assigned by a manufacturer, distributor, or remote retail
18 seller to various tobacco products in order to track
19 inventory.

20 "Tobacco products" means any cigars, including little
21 cigars; cheroots; stogies; periques; granulated, plug cut,
22 crimp cut, ready rubbed, and other smoking tobacco; snuff
23 (including moist snuff) or snuff flour; cavendish; plug and
24 twist tobacco; fine-cut and other chewing tobaccos; shorts;
25 refuse scraps, clippings, cuttings, and sweeping of tobacco;
26 and other kinds and forms of tobacco, prepared in such manner

1 as to be suitable for chewing or smoking in a pipe or
2 otherwise, or both for chewing and smoking; but does not
3 include cigarettes as defined in Section 1 of the Cigarette
4 Tax Act or tobacco purchased for the manufacture of cigarettes
5 by cigarette distributors and manufacturers defined in the
6 Cigarette Tax Act and persons who make, manufacture, or
7 fabricate cigarettes as a part of a Correctional Industries
8 program for sale to residents incarcerated in penal
9 institutions or resident patients of a State operated mental
10 health facility.

11 Beginning on July 1, 2019, "tobacco products" also
12 includes electronic cigarettes.

13 "Wholesale price" means the established list price for
14 which a manufacturer sells tobacco products to a distributor,
15 before the allowance of any discount, trade allowance, rebate,
16 or other reduction. In the absence of such an established list
17 price, the manufacturer's invoice price at which the
18 manufacturer sells the tobacco product to unaffiliated
19 distributors, before any discounts, trade allowances, rebates,
20 or other reductions, shall be presumed to be the wholesale
21 price.

22 "Wholesaler" means any person, wherever resident or
23 located, engaged in the business of selling tobacco products
24 to others for the purpose of resale. "Wholesaler", when used
25 in this Act, does not include a person licensed as a
26 distributor under Section 10-20 of this Act unless expressly

1 stated in this Act.

2 (Source: P.A. 101-31, eff. 6-28-19; 101-593, eff. 12-4-19;
3 102-40, eff. 6-25-21.)

4 (35 ILCS 143/10-10)

5 Sec. 10-10. Tax imposed.

6 (a) Except as otherwise provided in this Section with
7 respect to little cigars, on the first day of the third month
8 after the month in which this Act becomes law, a tax is imposed
9 on any person engaged in business as a distributor of tobacco
10 products, as defined in Section 10-5, at the rate of:

11 (1) ~~(i)~~ 18% of the wholesale price of tobacco
12 products sold or otherwise disposed of to retailers or
13 consumers located in this State prior to July 1, 2012;

14 (2) ~~and (ii)~~ 36% of the wholesale price of tobacco
15 products sold or otherwise disposed of to retailers or
16 consumers located in this State beginning on July 1, 2012
17 and before January 1, 2025; and

18 (3) beginning on January 1, 2025, 36% of:

19 (A) the actual cost paid by a distributor or
20 remote retail seller for the stock keeping unit sold
21 or otherwise disposed of to a retailer or consumer in
22 the State; or

23 (B) if documentation of the actual cost paid
24 by a distributor or remote retail seller is not
25 available due to matters beyond the distributor or

1 remote retail seller's control, the actual cost list
2 paid by a distributor or remote retail seller for the
3 stock keeping unit sold or otherwise disposed of to
4 retailers or consumers located in this State for which
5 documentation is not available.~~;~~ ~~except that,~~
6 ~~beginning~~

7 Notwithstanding the provisions of this subsection (a),
8 beginning on January 1, 2013, the tax on moist snuff shall be
9 imposed at a rate of \$0.30 per ounce, and a proportionate tax
10 at the like rate on all fractional parts of an ounce, sold or
11 otherwise disposed of to retailers or consumers located in
12 this State. Notwithstanding the provisions of subsection (a),
13 beginning on ~~;~~ ~~and except that,~~ ~~beginning~~ July 1, 2019, the tax
14 on electronic cigarettes shall be imposed at the rate of 15% of
15 the wholesale price of electronic cigarettes sold or otherwise
16 disposed of to retailers or consumers located in this State.

17 The tax imposed under this subsection (a) is in addition
18 to all other occupation or privilege taxes imposed by the
19 State of Illinois, by any political subdivision thereof, or by
20 any municipal corporation. However, the tax is not imposed
21 upon any activity in that business in interstate commerce or
22 otherwise, to the extent to which that activity may not, under
23 the Constitution and Statutes of the United States, be made
24 the subject of taxation by this State, and except that,
25 beginning July 1, 2013, the tax on little cigars shall be
26 imposed at the same rate, and the proceeds shall be

1 distributed in the same manner, as the tax imposed on
2 cigarettes under the Cigarette Tax Act. The tax is also not
3 imposed on sales made to the United States or any entity
4 thereof.

5 If the Department determines that the actual cost list for
6 a SKU is not indicative of the actual cost paid for the SKU,
7 then the Department may determine the distributor's or remote
8 retailer seller's tax liability for the SKU based on the
9 distributor's or remote retail seller's books and records or
10 from information on invoices obtained from the distributor's
11 or remote retail seller's suppliers.

12 (a-5) Beginning January 1, 2025, the tax imposed under
13 subsection (a) is also imposed upon persons who are engaged in
14 business as remote retail sellers of cigars and pipe tobacco
15 and who make sales to Illinois consumers on which the tax has
16 not been paid by a distributor, if:

17 (1) the cumulative gross receipts of the remote
18 retailer seller from sales of tangible personal property
19 to consumers in this State are \$100,000 or more; or

20 (2) the remote retail seller enters into 200 or more
21 separate transactions for the sale of tangible personal
22 property to consumers in this State.

23 A remote retail seller that meets or exceeds the threshold
24 in either paragraph (1) or (2) of this subsection shall be
25 liable for taxes imposed by this Act on all sales made by that
26 remote retailer seller of taxable products under this Act to

1 Illinois consumers on which the tax has not been paid by a
2 distributor.

3 The remote retail seller shall determine on a quarterly
4 basis, ending on the last day of March, June, September, and
5 December, whether it meets the criteria of either paragraph
6 (1) or (2) of this subsection for the preceding 12-month
7 period. If the remote retail seller meets the criteria of
8 either paragraph (1) or (2) for a 12-month period, then the
9 remote retail seller is considered to be engaged in business
10 as a remote retail seller in this State and is required to
11 collect and remit the tax imposed under this Act and to file
12 all applicable returns for the next 12-month period. At the
13 end of that 12-month period, the remote retail seller shall
14 determine whether the remote retail seller met the criteria of
15 either paragraph (1) or (2) for the preceding 12-month period.
16 If the remote retail seller met the criteria in either
17 paragraph (1) or (2) for the preceding 12-month period, the
18 remote retail seller is considered to be engaged in business
19 as a remote retail seller in this State and is required to
20 collect and remit the tax imposed under this Act and file
21 returns for the subsequent year. If, at the end of a one-year
22 period, a remote retail seller that was required to collect
23 and remit the tax imposed under this Act determines that the
24 remote retail seller did not meet the criteria in either
25 paragraph (1) or (2) during the preceding 12-month period,
26 then the remote retail seller shall certify to the Department,

1 in the form and manner required by the Department, that the
2 remote retail seller did not meet the criteria in either
3 paragraph (1) or (2) during the preceding 12-month period and
4 shall subsequently determine on a quarterly basis, ending on
5 the last day of March, June, September, and December, whether
6 the remote retail seller meets the criteria of either
7 paragraph (1) or (2) for the preceding 12-month period.

8 (b) Notwithstanding subsection (a) of this Section,
9 stamping distributors of packages of little cigars containing
10 20 or 25 little cigars sold or otherwise disposed of in this
11 State shall remit the tax by purchasing tax stamps from the
12 Department and affixing them to packages of little cigars in
13 the same manner as stamps are purchased and affixed to
14 cigarettes under the Cigarette Tax Act, unless the stamping
15 distributor sells or otherwise disposes of those packages of
16 little cigars to another stamping distributor. Only persons
17 meeting the definition of "stamping distributor" contained in
18 Section 10-5 of this Act may affix stamps to packages of little
19 cigars containing 20 or 25 little cigars. Stamping
20 distributors may not sell or dispose of little cigars at
21 retail to consumers or users at locations where stamping
22 distributors affix stamps to packages of little cigars
23 containing 20 or 25 little cigars.

24 (c) The impact of the tax levied by this Act is imposed
25 upon distributors engaged in the business of selling tobacco
26 products to retailers or consumers in this State. Beginning

1 January 1, 2025, the impact of the tax levied by this Act is
2 also imposed upon remote retail sellers that meet the criteria
3 in subsection (a-5) of this Section. A remote retail seller
4 shall pay the tax on all sales of cigars and pipe tobacco to
5 consumers in this State on which the tax has not been paid by a
6 distributor. Whenever a stamping distributor brings or causes
7 to be brought into this State from without this State, or
8 purchases from without or within this State, any packages of
9 little cigars containing 20 or 25 little cigars upon which
10 there are no tax stamps affixed as required by this Act, for
11 purposes of resale or disposal in this State to a person not a
12 stamping distributor, then such stamping distributor shall pay
13 the tax to the Department and add the amount of the tax to the
14 price of such packages sold by such stamping distributor.
15 Payment of the tax shall be evidenced by a stamp or stamps
16 affixed to each package of little cigars containing 20 or 25
17 little cigars.

18 Stamping distributors paying the tax to the Department on
19 packages of little cigars containing 20 or 25 little cigars
20 sold to other distributors, wholesalers or retailers shall add
21 the amount of the tax to the price of the packages of little
22 cigars containing 20 or 25 little cigars sold by such stamping
23 distributors.

24 (d) Beginning on January 1, 2013, the tax rate imposed per
25 ounce of moist snuff may not exceed 15% of the tax imposed upon
26 a package of 20 cigarettes pursuant to the Cigarette Tax Act.

1 (d-5) Notwithstanding any other provisions of this Section
2 to the contrary, beginning January 1, 2025, and continuing
3 through December 31, 2027, the tax per cigar sold or otherwise
4 disposed of shall not exceed \$0.75 per cigar. This subsection
5 shall not apply to little cigars.

6 (e) All moneys received by the Department under this Act
7 from sales occurring prior to July 1, 2012 shall be paid into
8 the Long-Term Care Provider Fund of the State Treasury. Of the
9 moneys received by the Department from sales occurring on or
10 after July 1, 2012, except for moneys received from the tax
11 imposed on the sale of little cigars, 50% shall be paid into
12 the Long-Term Care Provider Fund and 50% shall be paid into the
13 Healthcare Provider Relief Fund. Beginning July 1, 2013, all
14 moneys received by the Department under this Act from the tax
15 imposed on little cigars shall be distributed as provided in
16 Section 2 of the Cigarette Tax Act.

17 (Source: P.A. 101-31, eff. 6-28-19.)

18 (35 ILCS 143/10-24 new)

19 Sec. 10-24. Remote retail seller's license. Beginning on
20 January 1, 2025, it shall be unlawful for any person who meets
21 the criteria established in subsection (a-5) of Section 10-10
22 to engage in business as a remote retail seller within the
23 meaning of this Act without first having obtained a license to
24 do so from the Department. Application for that license shall
25 be made to the Department, by electronic means, in a form

1 prescribed by the Department. Each applicant for a license
2 shall furnish to the Department, in an electronic format
3 established by the Department, the following information:

4 (1) the name and address of the applicant;

5 (2) the address of the location at which the applicant
6 proposes to engage in business as a remote retail seller
7 outside this State; and

8 (3) such other additional information as the
9 Department may lawfully require by rule.

10 Beginning on January 1, 2025, in addition to obtaining a
11 license to engage in business as a remote retail seller in this
12 State, no remote retail seller who meets the criteria
13 established in subsection (a-5) of Section 10-10 may engage in
14 business as a remote retail seller within the meaning of this
15 Act without registering under the Retailers' Occupation Tax
16 Act pursuant to Section 2a of that Act.

17 A separate annual license shall be obtained for each place
18 of business at which a person who is required to procure a
19 remote retail seller's license under this Section proposes to
20 engage in business as a remote retail seller in Illinois under
21 this Act. All licenses issued by the Department under this
22 Section shall be valid for a period not to exceed one year
23 after issuance unless sooner revoked, canceled, or suspended
24 as provided in this Act. All licenses must be renewed on an
25 annual basis. An application submitted by a remote retail
26 seller shall include an acknowledgement consenting to the

1 jurisdiction of the Department and the courts of this State
2 concerning the enforcement of this Act and any related laws,
3 rules, and regulations, including authorizing the Department
4 of Revenue to conduct inspections and audits for the purpose
5 of ensuring compliance with this Act and to issue penalties
6 for violations of this Act.

7 Each remote retail seller must perform age verification
8 through an independent, third-party age verification service
9 that compares information available from a commercially
10 available database, or aggregate of databases, that are
11 regularly used by government agencies and businesses for the
12 purpose of age and identity verification to the personal
13 information entered by the individual during the ordering
14 process that establishes that the individual is of age.

15 If the provisions of subsection (a-5) of Section 10-10 are
16 met, and the tax imposed under this Act is being remitted using
17 the actual cost list method to calculate the tax, each remote
18 retailer seller must provide the remote retail sellers's
19 certified actual cost list to the Department for each SKU to be
20 offered for remote retail sale in the subsequent calendar
21 year. The actual cost list shall be updated by the remote
22 retailer seller quarterly as new SKUs are added to the remote
23 retailer seller's inventory. New SKUs will be added using the
24 actual cost first paid for the SKU.

25 The following are ineligible to receive a remote retail
26 seller's license under this Act:

1 (1) a person who has been convicted of a felony under
2 any federal or State law for smuggling cigarettes or
3 tobacco products or tobacco tax evasion, if the
4 Department, after investigation and a hearing if requested
5 by the applicant, determines that such person has not been
6 sufficiently rehabilitated to warrant the public trust;

7 (2) a corporation, if any officer, manager or director
8 thereof, or any stockholder or stockholders owning in the
9 aggregate more than 5% of the stock of such corporation,
10 would not be eligible to receive a license under this Act
11 for any reason; and

12 (3) any person who is in default to the State of
13 Illinois for moneys due under this Act or any other tax Act
14 administered by the Department.

15 The Department, upon receipt of an application and license
16 fee, in proper form, from a person who is eligible to receive a
17 remote retail seller's license under this Act, shall issue to
18 such applicant a license in form as prescribed by the
19 Department, which license shall permit the applicant to which
20 it is issued to engage in business as a remote retail seller
21 under this Act at the place shown in the remote retail seller's
22 application. All licenses issued by the Department under this
23 Section shall be valid for a period not to exceed one year
24 after issuance unless sooner revoked, canceled or suspended as
25 provided in this Act. No license issued under this Section is
26 transferable or assignable. A person who obtains a license as

1 a retailer who ceases to do business as specified in the
2 license, or who never commenced business, or whose license is
3 suspended or revoked, shall immediately surrender the license
4 to the Department.

5 The Department may, in its discretion, upon application,
6 authorize the payment of the tax imposed under Section 10-10
7 by any remote retail seller not otherwise subject to the tax
8 imposed under this Act who, to the satisfaction of the
9 Department, furnishes adequate security to ensure payment of
10 the tax. The remote retail seller shall be issued, without
11 charge, a license to remit the tax. When so authorized, it
12 shall be the duty of the remote retail seller to remit the tax
13 imposed upon the actual cost or actual cost list price of the
14 cigars or pipe tobacco sold or otherwise disposed of to
15 consumers located in this State, in the same manner and
16 subject to the same requirements as any other remote retail
17 seller required to be licensed under this Act. It shall be the
18 duty of the remote retail seller to remit the tax imposed upon
19 the actual cost or actual cost list price of cigar or pipe
20 tobacco, sold or otherwise disposed of to consumers located in
21 this State, in the same manner and subject to the same
22 requirements as any other remote retail seller required to be
23 licensed under this Act.

24 Any person aggrieved by any decision of the Department
25 under this Section may, within 30 days after notice of the
26 decision, protest and request a hearing. Upon receiving a

1 request for a hearing, the Department shall give notice to the
2 person requesting the hearing of the time and place fixed for
3 the hearing and shall hold a hearing in conformity with the
4 provisions of this Act and then issue its final administrative
5 decision in the matter to that person. In the absence of a
6 protest and request for a hearing within 30 days, the
7 Department's decision shall become final without any further
8 determination being made or notice given.

9 (35 ILCS 143/10-25)

10 Sec. 10-25. License actions.

11 (a) The Department may, after notice and a hearing,
12 revoke, cancel, or suspend the license of any distributor, ~~or~~
13 retailer, or remote retail seller who violates any of the
14 provisions of this Act, fails to keep books and records as
15 required under this Act, fails to make books and records
16 available for inspection upon demand by a duly authorized
17 employee of the Department, or violates a rule or regulation
18 of the Department for the administration and enforcement of
19 this Act. The notice shall specify the alleged violation or
20 violations upon which the revocation, cancellation, or
21 suspension proceeding is based.

22 (a-5) The Department may, after notice and a hearing,
23 revoke, cancel, or suspend the license of a distributor or
24 remote retail seller that fails to properly register and remit
25 tax under the Retailers' Occupation Tax Act for all tobacco

1 products that are sold to consumers in this State.

2 (a-10) The Department may, after notice and a hearing,
3 revoke, cancel, or suspend the license of a distributor or
4 remote retail seller who is found in violation of any law,
5 rule, or regulation of the state where the business is located
6 as listed on the license issued by the Department. The notice
7 shall specify the alleged violation or violations upon which
8 the revocation, cancellation, or suspension proceeding is
9 based.

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

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

26 If the retailer does not have a training program that

1 facilitates compliance with minimum-age tobacco laws, the
2 Department shall suspend for 3 days the license of that
3 retailer for a second violation of the Prevention of Tobacco
4 Use by Persons under 21 Years of Age and Sale and Distribution
5 of Tobacco Products Act, as provided in subsection (a-5) of
6 Section 2 of that Act.

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

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

21 A training program that facilitates compliance with
22 minimum-age tobacco laws must include at least the following
23 elements: (i) it must explain that only individuals displaying
24 valid identification demonstrating that they are 21 years of
25 age or older shall be eligible to purchase cigarettes or
26 tobacco products and (ii) it must explain where a clerk can

1 check identification for a date of birth. The training may be
2 conducted electronically. Each retailer that has a training
3 program shall require each employee who completes the training
4 program to sign a form attesting that the employee has
5 received and completed tobacco training. The form shall be
6 kept in the employee's file and may be used to provide proof of
7 training.

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

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

21 (35 ILCS 143/10-30)

22 Sec. 10-30. Returns.

23 (a) Every distributor shall, on or before the 15th day of
24 each month, file a return with the Department covering the
25 preceding calendar month. The return shall disclose the

1 wholesale price, or beginning on January 1, 2025, the actual
2 cost or actual cost list price for all tobacco products other
3 than electronic cigarettes, little cigars or moist snuff and
4 the quantity in ounces of moist snuff sold or otherwise
5 disposed of and other information that the Department may
6 reasonably require. The return shall be filed upon a form
7 prescribed and furnished by the Department.

8 (a-5) Beginning February 1, 2025, every remote retail
9 seller shall, on or before the 15th day of each month, file a
10 return with the Department covering the preceding calendar
11 month. The remote retail seller's return must report all
12 cigars or pipe tobacco brought in or caused to be brought in
13 from outside the State or shipped or transported to consumers
14 within the State during the preceding calendar month. The
15 return must include further information as the Department may
16 prescribe and must show the total actual cost or actual cost
17 list price paid by a remote retail seller for a stock keeping
18 unit for the previous calendar month. The return must show the
19 amount of tax due for all remote retail sales made from outside
20 the State, to a consumer within the State during the preceding
21 calendar month. It is the intent and purpose of this
22 amendatory Act of the 103rd General Assembly that the remote
23 retail seller remit the tax at the time the return is filed. It
24 is further the intent and purpose of this amendatory Act of the
25 103rd General Assembly to impose the tax under this Act only
26 once on all tobacco products, including cigars and pipe

1 tobacco, sold in the State.

2 (b) In addition to the information required under
3 subsection (a), on or before the 15th day of each month,
4 covering the preceding calendar month, each stamping
5 distributor shall, on forms prescribed and furnished by the
6 Department, report the quantity of little cigars sold or
7 otherwise disposed of, including the number of packages of
8 little cigars sold or disposed of during the month containing
9 20 or 25 little cigars.

10 (c) At the time when any return of any distributor or
11 remote retail seller is due to be filed with the Department,
12 the distributor shall also remit to the Department the tax
13 liability that the distributor or remote retail seller has
14 incurred for transactions occurring in the preceding calendar
15 month, less a discount of 1.75%, not to exceed \$1,000 per
16 month, which is allowed to reimburse the distributor or remote
17 retail seller for the expenses incurred in keeping records,
18 preparing and filing returns, remitting the tax, and supplying
19 data to the Department on request. No discount may be claimed
20 by a taxpayer on returns not timely filed and for taxes not
21 timely remitted. No discount may be claimed by a taxpayer for
22 any return that is not filed electronically.

23 (d) The Department may adopt rules to require the
24 electronic filing of any return or document required to be
25 filed under this Act. Those rules may provide for exceptions
26 from the filing requirement set forth in this paragraph for

1 persons who demonstrate that they do not have access to the
2 Internet and petition the Department to waive the electronic
3 filing requirement.

4 (e) If any payment provided for in this Section exceeds
5 the distributor's liabilities under this Act, as shown on an
6 original return, the distributor may credit such excess
7 payment against liability subsequently to be remitted to the
8 Department under this Act, in accordance with reasonable rules
9 adopted by the Department.

10 (Source: P.A. 100-1171, eff. 1-4-19.)

11 (35 ILCS 143/10-35)

12 Sec. 10-35. Record keeping.

13 (a) Every distributor, as defined in Section 10-5, shall
14 keep complete and accurate records of tobacco products held,
15 purchased, manufactured, brought in or caused to be brought in
16 from without the State, and tobacco products sold, or
17 otherwise disposed of, and shall preserve and keep all
18 invoices, bills of lading, sales records, and copies of bills
19 of sale, the wholesale price, and beginning January 1, 2025
20 the actual cost or actual cost list price for tobacco products
21 sold or otherwise disposed of, an inventory of tobacco
22 products prepared as of December 31 of each year or as of the
23 last day of the distributor's fiscal year if the distributor
24 ~~he or she~~ files federal income tax returns on the basis of a
25 fiscal year, and other pertinent papers and documents relating

1 to the manufacture, purchase, sale, or disposition of tobacco
2 products. Every sales invoice issued by a licensed distributor
3 to a retailer in this State shall contain the distributor's
4 Tobacco Products License number unless the distributor has
5 been granted a waiver by the Department in response to a
6 written request in cases where (i) the distributor sells
7 little cigars or other tobacco products only to licensed
8 retailers that are wholly-owned by the distributor or owned by
9 a wholly-owned subsidiary of the distributor; (ii) the
10 licensed retailer obtains little cigars or other tobacco
11 products only from the distributor requesting the waiver; and
12 (iii) the distributor affixes the tax stamps to the original
13 packages of little cigars or has or will pay the tax on the
14 other tobacco products sold to the licensed retailer. The
15 distributor shall file a written request with the Department,
16 and, if the Department determines that the distributor meets
17 the conditions for a waiver, the Department shall grant the
18 waiver.

19 (b) Every retailer, as defined in Section 10-5, whether or
20 not the retailer has obtained a retailer's license pursuant to
21 Section 4g, shall keep complete and accurate records of
22 tobacco products held, purchased, sold, or otherwise disposed
23 of, and shall preserve and keep all invoices, bills of lading,
24 sales records, and copies of bills of sale, returns and other
25 pertinent papers and documents relating to the purchase, sale,
26 or disposition of tobacco products. Such records need not be

1 maintained on the licensed premises, but must be maintained in
2 the State of Illinois; however, if access is available
3 electronically, the records may be maintained out of state.
4 However, all original invoices or copies thereof covering
5 purchases of tobacco products must be retained on the licensed
6 premises for a period of 90 days after such purchase, unless
7 the Department has granted a waiver in response to a written
8 request in cases where records are kept at a central business
9 location within the State of Illinois or in cases where
10 records that are available electronically are maintained out
11 of state. The Department shall adopt rules regarding the
12 eligibility for a waiver, revocation of a waiver, and
13 requirements and standards for maintenance and accessibility
14 of records located at a central location out-of-State pursuant
15 to a waiver provided under this Section.

16 (b-5) Every remote retail seller, as defined in Section
17 10-5, whether or not the remote retail seller has obtained a
18 remote retail seller's license pursuant to Section 4g, shall
19 keep complete and accurate records of tobacco products held,
20 purchased, sold, or otherwise disposed of, and shall preserve
21 and keep all invoices, bills of lading, sales records, and
22 copies of bills of sale, returns and other pertinent papers
23 and documents relating to the purchase, sale, or disposition
24 of tobacco products. Such records must be on the remote retail
25 seller's premises but need not be maintained in the State of
26 Illinois; however, remote retail sellers shall also provide

1 access electronically. However, all original invoices or
2 copies thereof covering purchases of tobacco products must be
3 retained on the remote retail seller's premises for a period
4 of 365 days after such purchase.

5 (c) Books, records, papers, and documents that are
6 required by this Act to be kept shall, at all times during the
7 usual business hours of the day, be subject to inspection by
8 the Department or its duly authorized agents and employees.
9 The books, records, papers, and documents for any period with
10 respect to which the Department is authorized to issue a
11 notice of tax liability shall be preserved until the
12 expiration of that period.

13 (Source: P.A. 99-192, eff. 1-1-16; 100-940, eff. 8-17-18.)

14 (35 ILCS 143/10-37)

15 Sec. 10-37. Proof of payment of tax imposed by this Act.
16 Every licensed distributor of tobacco products in this State
17 is required to show proof of the tax having been paid as
18 required by this Act by displaying its Tobacco Products
19 License number on every sales invoice issued to a retailer in
20 this State. Every licensed remote retail seller of tobacco
21 products in this State is required to show proof of the tax
22 having been paid as required by this Act by displaying its
23 Tobacco Products License number on every sales invoice issued
24 to a consumer in this State. No retailer shall possess tobacco
25 products without either a proper invoice indicating that the

1 tobacco products tax was paid by a distributor for the tobacco
2 products in the retailer's possession or other proof that the
3 tax was paid by the retailer if it has purchased tobacco
4 products on which tax has not been paid as required by this
5 Act. Failure to comply with the provisions of this paragraph
6 may be grounds for revocation of a distributor's, remote
7 retail seller's, or retailer's license in accordance with
8 Section 10-25 of this Act or Section 6 of the Cigarette Tax
9 Act. In addition, the Department may impose a civil penalty
10 not to exceed \$1,000 for the first violation and \$3,000 for
11 each subsequent violation, which shall be deposited into the
12 Tax Compliance and Administration Fund.

13 (Source: P.A. 100-940, eff. 8-17-18.)

14 (35 ILCS 143/10-38)

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

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

12 (Source: P.A. 100-940, eff. 8-17-18.)

13 (35 ILCS 143/10-45)

14 Sec. 10-45. Incorporation by reference. All of the
15 provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h,
16 5i, 5j, 6, 6a, 6b, 6c, 8, 9, 10, 11, 11a, and 12 of the
17 Retailers' Occupation Tax Act, and all applicable provisions
18 of the Uniform Penalty and Interest Act that are not
19 inconsistent with this Act, apply to distributors and remote
20 retail sellers of tobacco products to the same extent as if
21 those provisions were included in this Act. References in the
22 incorporated Sections of the Retailers' Occupation Tax Act to
23 retailers, to sellers, or to persons engaged in the business
24 of selling tangible personal property mean distributors or
25 remote retail sellers when used in this Act. References in the

1 incorporated Sections to sales of tangible personal property
2 mean sales of tobacco products when used in this Act.

3 All of the provisions of Sections 7, 8, 8a, 16, 18a, 18b,
4 18c, 22, 23, 24, 26, 27, and 28a of the Cigarette Tax Act which
5 are not inconsistent with this Act shall apply, as far as
6 practicable, to the subject matter of this Act to the same
7 extent as if those provisions were included in this Act.
8 References in the incorporated Sections to sales of cigarettes
9 mean sales of little cigars in packages of 20 or 25 little
10 cigars.

11 (Source: P.A. 98-273, eff. 8-9-13.)

12 (35 ILCS 143/10-50)

13 Sec. 10-50. Violations and penalties. When the amount due
14 is under \$300, any distributor or remote retail seller who
15 fails to file a return, willfully fails or refuses to make any
16 payment to the Department of the tax imposed by this Act, or
17 files a fraudulent return, or any officer or agent of a
18 corporation engaged in the business of distributing or
19 engaging in remote retail sales of tobacco products to
20 retailers or ~~and~~ consumers located in this State who signs a
21 fraudulent return filed on behalf of the corporation, or any
22 accountant or other agent who knowingly enters false
23 information on the return of any taxpayer under this Act is
24 guilty of a Class 4 felony.

25 Any person who violates any provision of Section 10-20,

1 10-21, ~~or~~ 10-22, or 10-24 of this Act, fails to keep books and
2 records as required under this Act, or willfully violates a
3 rule or regulation of the Department for the administration
4 and enforcement of this Act is guilty of a Class 4 felony. A
5 person commits a separate offense on each day that he or she
6 engages in business in violation of Section 10-20, 10-21, ~~or~~
7 10-22, or 10-24 of this Act. If a person fails to produce the
8 books and records for inspection by the Department upon
9 request, a prima facie presumption shall arise that the person
10 has failed to keep books and records as required under this
11 Act. A person who is unable to rebut this presumption is in
12 violation of this Act and is subject to the penalties provided
13 in this Section.

14 When the amount due is under \$300, any person who accepts
15 money that is due to the Department under this Act from a
16 taxpayer for the purpose of acting as the taxpayer's agent to
17 make the payment to the Department, but who fails to remit the
18 payment to the Department when due, is guilty of a Class 4
19 felony.

20 Any person who violates any provision of Sections 10-20,
21 10-21 and 10-22 of this Act, fails to keep books and records as
22 required under this Act, or willfully violates a rule or
23 regulation of the Department for the administration and
24 enforcement of this Act is guilty of a business offense and may
25 be fined up to \$5,000. If a person fails to produce books and
26 records for inspection by the Department upon request, a prima

1 facie presumption shall arise that the person has failed to
2 keep books and records as required under this Act. A person who
3 is unable to rebut this presumption is in violation of this Act
4 and is subject to the penalties provided in this Section. A
5 person commits a separate offense on each day that he or she
6 engages in business in violation of Sections 10-20, 10-21 and
7 10-22 of this Act.

8 When the amount due is \$300 or more, any distributor or
9 remote retail seller who files, or causes to be filed, a
10 fraudulent return, or any officer or agent of a corporation
11 engaged in the business of distributing or engaging in remote
12 retail sales of tobacco products to retailers or ~~and~~ consumers
13 located in this State who files or causes to be filed or signs
14 or causes to be signed a fraudulent return filed on behalf of
15 the corporation, or any accountant or other agent who
16 knowingly enters false information on the return of any
17 taxpayer under this Act is guilty of a Class 3 felony.

18 When the amount due is \$300 or more, any person engaged in
19 the business of distributing or engaging in remote retail
20 sales of tobacco products to retailers or ~~and~~ consumers
21 located in this State who fails to file a return, willfully
22 fails or refuses to make any payment to the Department of the
23 tax imposed by this Act, or accepts money that is due to the
24 Department under this Act from a taxpayer for the purpose of
25 acting as the taxpayer's agent to make payment to the
26 Department but fails to remit such payment to the Department

1 when due is guilty of a Class 3 felony.

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

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

25 Any person whose principal place of business is in this
26 State and who is charged with a violation under this Section

1 shall be tried in the county where his or her principal place
2 of business is located unless he or she asserts a right to be
3 tried in another venue. If the taxpayer does not have his or
4 her principal place of business in this State, however, the
5 hearing must be held in Sangamon County unless the taxpayer
6 asserts a right to be tried in another venue.

7 Any taxpayer or agent of a taxpayer who with the intent to
8 defraud purports to make a payment due to the Department by
9 issuing or delivering a check or other order upon a real or
10 fictitious depository for the payment of money, knowing that
11 it will not be paid by the depository, is guilty of a deceptive
12 practice in violation of Section 17-1 of the Criminal Code of
13 2012.

14 A prosecution for a violation described in this Section
15 may be commenced within 3 years after the commission of the act
16 constituting the violation.

17 (Source: P.A. 100-201, eff. 8-18-17; 100-940, eff. 8-17-18.)

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