



Rep. Robert "Bob" Rita

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10300HB5108ham001

LRB103 37757 HLH 71548 a

1 AMENDMENT TO HOUSE BILL 5108

2 AMENDMENT NO. _____. Amend House Bill 5108 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Tobacco Products Tax Act of 1995 is
5 amended by changing Sections 10-5, 10-10, 10-25, 10-30, 10-35,
6 10-37, 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 before any stated discounts or rebates.

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

1 occurs.

2 "Business" means any trade, occupation, activity, or
3 enterprise engaged in, at any location whatsoever, for the
4 purpose of selling tobacco products.

5 "Cigar" means any roll of tobacco wrapped in leaf tobacco
6 or in any substance containing tobacco. "Cigar" does not
7 include a little cigar or any roll of tobacco that is
8 classified as a cigarette within the meaning of Section 1 of
9 the Cigarette Tax Act.

10 "Cigarette" has the meaning ascribed to the term in
11 Section 1 of the Cigarette Tax Act.

12 "Contraband little cigar" means:

13 (1) packages of little cigars containing 20 or 25
14 little cigars that do not bear a required tax stamp under
15 this Act;

16 (2) packages of little cigars containing 20 or 25
17 little cigars that bear a fraudulent, imitation, or
18 counterfeit tax stamp;

19 (3) packages of little cigars containing 20 or 25
20 little cigars that are improperly tax stamped, including
21 packages of little cigars that bear only a tax stamp of
22 another state or taxing jurisdiction; or

23 (4) packages of little cigars containing other than 20
24 or 25 little cigars in the possession of a distributor,
25 retailer or wholesaler, unless the distributor, retailer,
26 or wholesaler possesses, or produces within the time frame

1 provided in Section 10-27 or 10-28 of this Act, an invoice
2 from a stamping distributor, distributor, or wholesaler
3 showing that the tax on the packages has been or will be
4 paid.

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

8 "Correctional Industries program" means a program run by a
9 State penal institution in which residents of the penal
10 institution produce tobacco products for sale to persons
11 incarcerated in penal institutions or resident patients of a
12 State operated mental health facility.

13 "Department" means the Illinois Department of Revenue.

14 "Distributor" means any of the following:

15 (1) Any manufacturer or wholesaler in this State
16 engaged in the business of selling tobacco products who
17 sells, exchanges, or distributes tobacco products to
18 retailers or consumers in this State.

19 (2) Any manufacturer or wholesaler engaged in the
20 business of selling tobacco products from without this
21 State who sells, exchanges, distributes, ships, or
22 transports tobacco products to retailers or consumers
23 located in this State, so long as that manufacturer or
24 wholesaler has or maintains within this State, directly or
25 by subsidiary, an office, sales house, or other place of
26 business, or any agent or other representative operating

1 within this State under the authority of the person or
2 subsidiary, irrespective of whether the place of business
3 or agent or other representative is located here
4 permanently or temporarily.

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

8 "Distributor" does not include any person, wherever
9 resident or located, who makes, manufactures, or fabricates
10 tobacco products as part of a Correctional Industries program
11 for sale to residents incarcerated in penal institutions or
12 resident patients of a State operated mental health facility.

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, except for (A)
17 any device designed solely for use with cannabis that
18 contains a statement on the retail packaging that the
19 device is designed solely for use with cannabis and not
20 for use with tobacco or (B) any device that contains a
21 solution or substance that contains cannabis subject to
22 tax under the Compassionate Use of Medical Cannabis
23 Program Act or the Cannabis Regulation and Tax Act;

24 (2) any cartridge or container of a solution or
25 substance intended to be used with or in the device or to
26 refill the device, except for any cartridge or container

1 of a solution or substance that contains cannabis subject
2 to tax under the Compassionate Use of Medical Cannabis
3 Program Act or the Cannabis Regulation and Tax Act; or

4 (3) any solution or substance, whether or not it
5 contains nicotine, intended for use in the device, except
6 for any solution or substance that contains cannabis
7 subject to tax under the Compassionate Use of Medical
8 Cannabis Program Act or the Cannabis Regulation and Tax
9 Act.

10 The changes made to the definition of "electronic
11 cigarette" by this amendatory Act of the 102nd General
12 Assembly apply on and after June 28, 2019, but no claim for
13 credit or refund is allowed on or after the effective date of
14 this amendatory Act of the 102nd General Assembly for such
15 taxes paid during the period beginning June 28, 2019 and the
16 effective date of this amendatory Act of the 102nd General
17 Assembly.

18 "Electronic cigarette" includes, but is not limited to,
19 any electronic nicotine delivery system, electronic cigar,
20 electronic cigarillo, electronic pipe, electronic hookah, vape
21 pen, or similar product or device, and any component or part
22 that can be used to build the product or device. "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; or any therapeutic product approved for use
5 under the Compassionate Use of Medical Cannabis Program Act.

6 "Little cigar" means and includes any roll, made wholly or
7 in part of tobacco, where such roll has an integrated
8 cellulose acetate filter and weighs less than 4 pounds per
9 thousand and the wrapper or cover of which is made in whole or
10 in part of tobacco.

11 "Manufacturer" means any person, wherever resident or
12 located, who manufactures and sells tobacco products, except a
13 person who makes, manufactures, or fabricates tobacco products
14 as a part of a Correctional Industries program for sale to
15 persons incarcerated in penal institutions or resident
16 patients of a State operated mental health facility.

17 Beginning on January 1, 2013, "moist snuff" means any
18 finely cut, ground, or powdered tobacco that is not intended
19 to be smoked, but shall not include any finely cut, ground, or
20 powdered tobacco that is intended to be placed in the nasal
21 cavity.

22 "Person" means any natural individual, firm, partnership,
23 association, joint stock company, joint venture, limited
24 liability company, or public or private corporation, however
25 formed, or a receiver, executor, administrator, trustee,
26 conservator, or other representative appointed by order of any

1 court.

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

6 "Place of business" means and includes any place where
7 tobacco products are sold or where tobacco products are
8 manufactured, stored, or kept for the purpose of sale or
9 consumption, including any vessel, vehicle, airplane, train,
10 or vending machine.

11 "Remote retail sale" means a sale by a remote retail
12 seller of cigars or pipe tobacco to a consumer in this State
13 when:

14 (1) the buyer submits the order for the sale by means
15 of a telephone or other method of voice transmission, by
16 first class mail, or by using the Internet or other online
17 service, or if the seller is otherwise not in the physical
18 presence of the buyer when the request for purchase or
19 order is made; or

20 (2) the cigars or pipe tobacco are delivered to the
21 buyer by common carrier, private delivery service, or
22 other method of remote delivery, or the seller is not in
23 the physical presence of the buyer when the buyer obtains
24 possession of the cigars or pipe tobacco.

25 "Remote retail seller" means a person located outside of
26 this State who makes remote retail sales of cigars or pipe

1 tobacco, so long as that person does not maintain within this
2 State, directly or by a subsidiary, an office, distribution
3 house, sales house, warehouse, or other place of business, or
4 any agent or other representative operating within this State
5 under the authority of the person or its subsidiary,
6 irrespective of whether the place of business or the agent is
7 located here permanently or temporarily or whether the person
8 or subsidiary is licensed to do business in this State.

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

12 "Sale" means any transfer, exchange, or barter in any
13 manner or by any means whatsoever for a consideration and
14 includes all sales made by persons.

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

21 "Stamping distributor" means a distributor licensed under
22 this Act and also licensed as a distributor under the
23 Cigarette Tax Act or Cigarette Use Tax Act.

24 "Stock keeping unit" or "SKU" means the unique identifier
25 assigned by a manufacturer, distributor, or remote retail
26 seller to various tobacco products in order to track

1 inventory.

2 "Tobacco products" means any cigars, including little
3 cigars; cheroots; stogies; periques; granulated, plug cut,
4 crimp cut, ready rubbed, and other smoking tobacco; snuff
5 (including moist snuff) or snuff flour; cavendish; plug and
6 twist tobacco; fine-cut and other chewing tobaccos; shorts;
7 refuse scraps, clippings, cuttings, and sweeping of tobacco;
8 and other kinds and forms of tobacco, prepared in such manner
9 as to be suitable for chewing or smoking in a pipe or
10 otherwise, or both for chewing and smoking; but does not
11 include cigarettes as defined in Section 1 of the Cigarette
12 Tax Act or tobacco purchased for the manufacture of cigarettes
13 by cigarette distributors and manufacturers defined in the
14 Cigarette Tax Act and persons who make, manufacture, or
15 fabricate cigarettes as a part of a Correctional Industries
16 program for sale to residents incarcerated in penal
17 institutions or resident patients of a State operated mental
18 health facility.

19 Beginning on July 1, 2019, "tobacco products" also
20 includes electronic cigarettes.

21 "Wholesale price" means the established list price for
22 which a manufacturer sells tobacco products to a distributor,
23 before the allowance of any discount, trade allowance, rebate,
24 or other reduction. In the absence of such an established list
25 price, the manufacturer's invoice price at which the
26 manufacturer sells the tobacco product to unaffiliated

1 distributors, before any discounts, trade allowances, rebates,
2 or other reductions, shall be presumed to be the wholesale
3 price.

4 "Wholesaler" means any person, wherever resident or
5 located, engaged in the business of selling tobacco products
6 to others for the purpose of resale. "Wholesaler", when used
7 in this Act, does not include a person licensed as a
8 distributor under Section 10-20 of this Act unless expressly
9 stated in this Act.

10 (Source: P.A. 101-31, eff. 6-28-19; 101-593, eff. 12-4-19;
11 102-40, eff. 6-25-21.)

12 (35 ILCS 143/10-10)

13 Sec. 10-10. Tax imposed.

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

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

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

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

2 (A) the actual cost paid by a distributor or
3 remote retail seller for the stock keeping unit sold
4 or otherwise disposed of to a retailer or consumer in
5 the State; or

6 (B) if documentation of the actual cost paid
7 by a distributor or remote retail seller is not
8 available due to matters beyond the distributor or
9 remote retail seller's control, the actual cost list
10 paid by a distributor or remote retail seller for the
11 stock keeping unit sold or otherwise disposed of to
12 retailers or consumers located in this State for which
13 documentation is not available. ~~except that,~~
14 ~~beginning~~

15 Notwithstanding the provisions of this subsection (a),
16 beginning on January 1, 2013, the tax on moist snuff shall be
17 imposed at a rate of \$0.30 per ounce, and a proportionate tax
18 at the like rate on all fractional parts of an ounce, sold or
19 otherwise disposed of to retailers or consumers located in
20 this State. Notwithstanding the provisions of subsection (a),
21 beginning on ~~and except that, beginning~~ July 1, 2019, the tax
22 on electronic cigarettes shall be imposed at the rate of 15% of
23 the wholesale price of electronic cigarettes sold or otherwise
24 disposed of to retailers or consumers located in this State.

25 The tax imposed under this subsection (a) is in addition
26 to all other occupation or privilege taxes imposed by the

1 State of Illinois, by any political subdivision thereof, or by
2 any municipal corporation. However, the tax is not imposed
3 upon any activity in that business in interstate commerce or
4 otherwise, to the extent to which that activity may not, under
5 the Constitution and Statutes of the United States, be made
6 the subject of taxation by this State, and except that,
7 beginning July 1, 2013, the tax on little cigars shall be
8 imposed at the same rate, and the proceeds shall be
9 distributed in the same manner, as the tax imposed on
10 cigarettes under the Cigarette Tax Act. The tax is also not
11 imposed on sales made to the United States or any entity
12 thereof.

13 If the Department determines that the actual cost list for
14 a SKU is not indicative of the actual cost paid for the SKU,
15 then the Department may determine the distributor's or remote
16 retail seller's tax liability for the SKU based on the
17 distributor's or remote retail seller's books and records or
18 from information on invoices obtained from the distributor's
19 or remote retail seller's suppliers.

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

25 (1) the cumulative gross receipts of the remote retail
26 seller from sales of tangible personal property to

1 consumers in this State are \$100,000 or more; or

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

5 A remote retail seller that meets or exceeds the threshold
6 in either paragraph (1) or (2) of this subsection shall be
7 liable for taxes imposed by this Act on all sales made by that
8 remote retail seller of taxable products under this Act to
9 Illinois consumers on which the tax has not been paid by a
10 distributor.

11 The remote retail seller shall determine on a quarterly
12 basis, ending on the last day of March, June, September, and
13 December, whether it meets the criteria of either paragraph
14 (1) or (2) of this subsection for the preceding 12-month
15 period. If the remote retail seller meets the criteria of
16 either paragraph (1) or (2) for a 12-month period, then the
17 remote retail seller is considered to be engaged in business
18 as a remote retail seller in this State and is required to
19 collect and remit the tax imposed under this Act and to file
20 all applicable returns for the next 12-month period. At the
21 end of that 12-month period, the remote retail seller shall
22 determine whether the remote retail seller met the criteria of
23 either paragraph (1) or (2) for the preceding 12-month period.
24 If the remote retail seller met the criteria in either
25 paragraph (1) or (2) for the preceding 12-month period, the
26 remote retail seller is considered to be engaged in business

1 as a remote retail seller in this State and is required to
2 collect and remit the tax imposed under this Act and file
3 returns for the subsequent year. If, at the end of a one-year
4 period, a remote retail seller that was required to collect
5 and remit the tax imposed under this Act determines that the
6 remote retail seller did not meet the criteria in either
7 paragraph (1) or (2) during the preceding 12-month period,
8 then the remote retail seller shall certify to the Department,
9 in the form and manner required by the Department, that the
10 remote retail seller did not meet the criteria in either
11 paragraph (1) or (2) during the preceding 12-month period and
12 shall subsequently determine on a quarterly basis, ending on
13 the last day of March, June, September, and December, whether
14 the remote retail seller meets the criteria of either
15 paragraph (1) or (2) for the preceding 12-month period.

16 (b) Notwithstanding subsection (a) of this Section,
17 stamping distributors of packages of little cigars containing
18 20 or 25 little cigars sold or otherwise disposed of in this
19 State shall remit the tax by purchasing tax stamps from the
20 Department and affixing them to packages of little cigars in
21 the same manner as stamps are purchased and affixed to
22 cigarettes under the Cigarette Tax Act, unless the stamping
23 distributor sells or otherwise disposes of those packages of
24 little cigars to another stamping distributor. Only persons
25 meeting the definition of "stamping distributor" contained in
26 Section 10-5 of this Act may affix stamps to packages of little

1 cigars containing 20 or 25 little cigars. Stamping
2 distributors may not sell or dispose of little cigars at
3 retail to consumers or users at locations where stamping
4 distributors affix stamps to packages of little cigars
5 containing 20 or 25 little cigars.

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

26 Stamping distributors paying the tax to the Department on

1 packages of little cigars containing 20 or 25 little cigars
2 sold to other distributors, wholesalers or retailers shall add
3 the amount of the tax to the price of the packages of little
4 cigars containing 20 or 25 little cigars sold by such stamping
5 distributors.

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

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

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

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

1 (35 ILCS 143/10-24 new)

2 Sec. 10-24. Remote retail seller's license. Beginning on
3 January 1, 2025, it shall be unlawful for any person who meets
4 the criteria established in subsection (a-5) of Section 10-10
5 to engage in business as a remote retail seller within the
6 meaning of this Act without first having obtained a license to
7 do so from the Department. Application for that license shall
8 be made to the Department, by electronic means, in a form
9 prescribed by the Department. Each applicant for a license
10 shall furnish to the Department, in an electronic format
11 established by the Department, the following information:

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

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

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

18 Beginning on January 1, 2025, in addition to obtaining a
19 license to engage in business as a remote retail seller in this
20 State, no remote retail seller who meets the criteria
21 established in subsection (a-5) of Section 10-10 may engage in
22 business as a remote retail seller within the meaning of this
23 Act without registering under the Retailers' Occupation Tax
24 Act pursuant to Section 2a of that Act.

25 A separate annual license shall be obtained for each place
26 of business at which a person who is required to procure a

1 remote retail seller's license under this Section proposes to
2 engage in business as a remote retail seller in Illinois under
3 this Act. All licenses issued by the Department under this
4 Section shall be valid for a period not to exceed one year
5 after issuance unless sooner revoked, canceled, or suspended
6 as provided in this Act. All licenses must be renewed on an
7 annual basis. An application submitted by a remote retail
8 seller shall include an acknowledgement consenting to the
9 jurisdiction of the Department and the courts of this State
10 concerning the enforcement of this Act and any related laws,
11 rules, and regulations, including authorizing the Department
12 of Revenue to conduct inspections and audits for the purpose
13 of ensuring compliance with this Act and to issue penalties
14 for violations of this Act.

15 Each remote retail seller must perform age verification
16 through an independent, third-party age verification service
17 that compares information available from a commercially
18 available database, or aggregate of databases, that are
19 regularly used by government agencies and businesses for the
20 purpose of age and identity verification to the personal
21 information entered by the individual during the ordering
22 process that establishes that the individual is of age.

23 If the provisions of subsection (a-5) of Section 10-10 are
24 met, and the tax imposed under this Act is being remitted using
25 the actual cost list method to calculate the tax, each remote
26 retail seller must provide the remote retail sellers's

1 certified actual cost list to the Department for each SKU to be
2 offered for remote retail sale in the subsequent calendar
3 year. The actual cost list shall be updated by the remote
4 retail seller quarterly as new SKUs are added to the remote
5 retail seller's inventory. New SKUs will be added using the
6 actual cost first paid for the SKU.

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

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

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

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

23 The Department, upon receipt of an application, in proper
24 form, from a person who is eligible to receive a remote retail
25 seller's license under this Act, shall issue to such applicant
26 a license in form as prescribed by the Department, which

1 license shall permit the applicant to which it is issued to
2 engage in business as a remote retail seller under this Act at
3 the place shown in the remote retail seller's application. All
4 licenses issued by the Department under this Section shall be
5 valid for a period not to exceed one year after issuance unless
6 sooner revoked, canceled or suspended as provided in this Act.
7 No license issued under this Section is transferable or
8 assignable. A person who obtains a license as a retailer who
9 ceases to do business as specified in the license, or who never
10 commenced business, or whose license is suspended or revoked,
11 shall immediately surrender the license to the Department.

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

1 tobacco, sold or otherwise disposed of to consumers located in
2 this State, in the same manner and subject to the same
3 requirements as any other remote retail seller required to be
4 licensed under this Act.

5 Any person aggrieved by any decision of the Department
6 under this Section may, within 30 days after notice of the
7 decision, protest and request a hearing. Upon receiving a
8 request for a hearing, the Department shall give notice to the
9 person requesting the hearing of the time and place fixed for
10 the hearing and shall hold a hearing in conformity with the
11 provisions of this Act and then issue its final administrative
12 decision in the matter to that person. In the absence of a
13 protest and request for a hearing within 30 days, the
14 Department's decision shall become final without any further
15 determination being made or notice given.

16 (35 ILCS 143/10-25)

17 Sec. 10-25. License actions.

18 (a) The Department may, after notice and a hearing,
19 revoke, cancel, or suspend the license of any distributor, ~~or~~
20 retailer, or remote retail seller who violates any of the
21 provisions of this Act, fails to keep books and records as
22 required under this Act, fails to make books and records
23 available for inspection upon demand by a duly authorized
24 employee of the Department, or violates a rule or regulation
25 of the Department for the administration and enforcement of

1 this Act. The notice shall specify the alleged violation or
2 violations upon which the revocation, cancellation, or
3 suspension proceeding is based.

4 (a-5) The Department may, after notice and a hearing,
5 revoke, cancel, or suspend the license of a distributor or
6 remote retail seller that fails to properly register and remit
7 tax under the Retailers' Occupation Tax Act for all tobacco
8 products that are sold to consumers in this State.

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

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

21 (c) If the retailer has a training program that
22 facilitates compliance with minimum-age tobacco laws, the
23 Department shall suspend for 3 days the license of that
24 retailer for a fourth or subsequent violation of the
25 Prevention of Tobacco Use by Persons under 21 Years of Age and
26 Sale and Distribution of Tobacco Products Act, as provided in

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

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 3 days the license of that
10 retailer for a second 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 7 days the license of that
17 retailer for a third violation of the Prevention of Tobacco
18 Use by Persons under 21 Years of Age and Sale and Distribution
19 of Tobacco Products Act, as provided in subsection (a-5) of
20 Section 2 of that Act.

21 If the retailer does not have a training program that
22 facilitates compliance with minimum-age tobacco laws, the
23 Department shall suspend for 30 days the license of a retailer
24 for a fourth or subsequent violation of the Prevention of
25 Tobacco Use by Persons under 21 Years of Age and Sale and
26 Distribution of Tobacco Products Act, as provided in

1 subsection (a-5) of Section 2 of that Act.

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

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

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

2 (35 ILCS 143/10-30)

3 Sec. 10-30. Returns.

4 (a) Every distributor shall, on or before the 15th day of
5 each month, file a return with the Department covering the
6 preceding calendar month. The return shall disclose the
7 wholesale price, or beginning on January 1, 2025, the actual
8 cost or actual cost list price for all tobacco products other
9 than electronic cigarettes, little cigars or moist snuff and
10 the quantity in ounces of moist snuff sold or otherwise
11 disposed of and other information that the Department may
12 reasonably require. The return shall be filed upon a form
13 prescribed and furnished by the Department.

14 (a-5) Beginning February 1, 2025, every remote retail
15 seller shall, on or before the 15th day of each month, file a
16 return with the Department covering the preceding calendar
17 month. The remote retail seller's return must report all
18 cigars or pipe tobacco brought in or caused to be brought in
19 from outside the State or shipped or transported to consumers
20 within the State during the preceding calendar month. The
21 return must include further information as the Department may
22 prescribe and must show the total actual cost or actual cost
23 list price paid by a remote retail seller for a stock keeping
24 unit for the previous calendar month. The return must show the
25 amount of tax due for all remote retail sales made from outside

1 the State, to a consumer within the State during the preceding
2 calendar month. It is the intent and purpose of this
3 amendatory Act of the 103rd General Assembly that the remote
4 retail seller remit the tax at the time the return is filed. It
5 is further the intent and purpose of this amendatory Act of the
6 103rd General Assembly to impose the tax under this Act only
7 once on all tobacco products, including cigars and pipe
8 tobacco, sold in the State.

9 (b) In addition to the information required under
10 subsection (a), on or before the 15th day of each month,
11 covering the preceding calendar month, each stamping
12 distributor shall, on forms prescribed and furnished by the
13 Department, report the quantity of little cigars sold or
14 otherwise disposed of, including the number of packages of
15 little cigars sold or disposed of during the month containing
16 20 or 25 little cigars.

17 (c) At the time when any return of any distributor or
18 remote retail seller is due to be filed with the Department,
19 the distributor shall also remit to the Department the tax
20 liability that the distributor or remote retail seller has
21 incurred for transactions occurring in the preceding calendar
22 month. Starting January 1, 2025, the distributor or remote
23 remote retail seller shall remit the tax liability, less a
24 discount of 1.75%, not to exceed \$1,000 per month, which is
25 allowed to reimburse the distributor or remote retail seller
26 for the expenses incurred in keeping records, preparing and

1 filing returns, remitting the tax, and supplying data to the
2 Department on request. No discount may be claimed by a
3 taxpayer on returns not timely filed and for taxes not timely
4 remitted. No discount may be claimed by a taxpayer for any
5 return that is not filed electronically.

6 (d) The Department may adopt rules to require the
7 electronic filing of any return or document required to be
8 filed under this Act. Those rules may provide for exceptions
9 from the filing requirement set forth in this paragraph for
10 persons who demonstrate that they do not have access to the
11 Internet and petition the Department to waive the electronic
12 filing requirement.

13 (e) If any payment provided for in this Section exceeds
14 the distributor's liabilities under this Act, as shown on an
15 original return, the distributor may credit such excess
16 payment against liability subsequently to be remitted to the
17 Department under this Act, in accordance with reasonable rules
18 adopted by the Department.

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

20 (35 ILCS 143/10-35)

21 Sec. 10-35. Record keeping.

22 (a) Every distributor, as defined in Section 10-5, shall
23 keep complete and accurate records of tobacco products held,
24 purchased, manufactured, brought in or caused to be brought in
25 from without the State, and tobacco products sold, or

1 otherwise disposed of, and shall preserve and keep all
2 invoices, bills of lading, sales records, and copies of bills
3 of sale, the wholesale price, and beginning January 1, 2025
4 the actual cost or actual cost list price for tobacco products
5 sold or otherwise disposed of, an inventory of tobacco
6 products prepared as of December 31 of each year or as of the
7 last day of the distributor's fiscal year if the distributor
8 ~~he or she~~ files federal income tax returns on the basis of a
9 fiscal year, and other pertinent papers and documents relating
10 to the manufacture, purchase, sale, or disposition of tobacco
11 products. Every sales invoice issued by a licensed distributor
12 to a retailer in this State shall contain the distributor's
13 Tobacco Products License number unless the distributor has
14 been granted a waiver by the Department in response to a
15 written request in cases where (i) the distributor sells
16 little cigars or other tobacco products only to licensed
17 retailers that are wholly-owned by the distributor or owned by
18 a wholly-owned subsidiary of the distributor; (ii) the
19 licensed retailer obtains little cigars or other tobacco
20 products only from the distributor requesting the waiver; and
21 (iii) the distributor affixes the tax stamps to the original
22 packages of little cigars or has or will pay the tax on the
23 other tobacco products sold to the licensed retailer. The
24 distributor shall file a written request with the Department,
25 and, if the Department determines that the distributor meets
26 the conditions for a waiver, the Department shall grant the

1 waiver.

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

25 (b-5) Every remote retail seller, as defined in Section
26 10-5 shall keep complete and accurate records of tobacco

1 products held, purchased, sold, or otherwise disposed of and
2 shall preserve and keep all invoices, bills of lading, sales
3 records, and copies of bills of sale, returns and other
4 pertinent papers and documents relating to the purchase, sale,
5 or disposition of tobacco products. Such records must be on
6 the remote retail seller's premises but need not be maintained
7 in the State of Illinois; however, remote retail sellers shall
8 also provide access electronically. However, all original
9 invoices or copies thereof covering purchases of tobacco
10 products must be retained on the remote retail seller's
11 premises until the expiration of the period with respect to
12 which the Department is authorized to issue a notice of tax
13 liability.

14 (c) Books, records, papers, and documents that are
15 required by this Act to be kept shall, at all times during the
16 usual business hours of the day, be subject to inspection by
17 the Department or its duly authorized agents and employees.
18 The books, records, papers, and documents for any period with
19 respect to which the Department is authorized to issue a
20 notice of tax liability shall be preserved until the
21 expiration of that period.

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

23 (35 ILCS 143/10-37)

24 Sec. 10-37. Proof of payment of tax imposed by this Act.
25 Every licensed distributor of tobacco products in this State

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

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

23 (35 ILCS 143/10-38)

24 Sec. 10-38. Presumption for unlicensed distributors,
25 remote retail sellers, or persons. Whenever any person obtains

1 tobacco products from an unlicensed in-state or out-of-state
2 distributor, remote retail seller, or person, a prima facie
3 presumption shall arise that the tax imposed by this Act on
4 such tobacco products has not been paid in violation of this
5 Act. Invoices or other documents kept in the normal course of
6 business in the possession of a person reflecting purchases of
7 tobacco products from an unlicensed in-state or out-of-state
8 distributor, remote retail seller, or person or invoices or
9 other documents kept in the normal course of business obtained
10 by the Department from in-state or out-of-state distributors, remote retail sellers,
11 remote retail sellers, or persons, are sufficient to raise the
12 presumption that the tax imposed by this Act has not been paid.
13 If a presumption is raised, the Department may assess tax,
14 penalty, and interest on the tobacco products. In addition,
15 any person who violates this Section is liable to pay to the
16 Department, for deposit in the Tax Compliance and
17 Administration Fund, a penalty of \$1,000 for the first
18 violation and \$3,000 for any subsequent violation. The
19 Department may adopt rules to administer the penalties under
20 this Section.

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

22 (35 ILCS 143/10-45)

23 Sec. 10-45. Incorporation by reference. All of the
24 provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h,
25 5i, 5j, 6, 6a, 6b, 6c, 8, 9, 10, 11, 11a, and 12 of the

1 Retailers' Occupation Tax Act, and all applicable provisions
2 of the Uniform Penalty and Interest Act that are not
3 inconsistent with this Act, apply to distributors and remote
4 retail sellers of tobacco products to the same extent as if
5 those provisions were included in this Act. References in the
6 incorporated Sections of the Retailers' Occupation Tax Act to
7 retailers, to sellers, or to persons engaged in the business
8 of selling tangible personal property mean distributors or
9 remote retail sellers when used in this Act. References in the
10 incorporated Sections to sales of tangible personal property
11 mean sales of tobacco products when used in this Act.

12 All of the provisions of Sections 7, 8, 8a, 16, 18a, 18b,
13 18c, 22, 23, 24, 26, 27, and 28a of the Cigarette Tax Act which
14 are not inconsistent with this Act shall apply, as far as
15 practicable, to the subject matter of this Act to the same
16 extent as if those provisions were included in this Act.
17 References in the incorporated Sections to sales of cigarettes
18 mean sales of little cigars in packages of 20 or 25 little
19 cigars.

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

21 (35 ILCS 143/10-50)

22 Sec. 10-50. Violations and penalties. When the amount due
23 is under \$300, any distributor or remote retail seller who
24 fails to file a return, willfully fails or refuses to make any
25 payment to the Department of the tax imposed by this Act, or

1 files a fraudulent return, or any officer or agent of a
2 corporation engaged in the business of distributing or
3 engaging in remote retail sales of tobacco products to
4 retailers or ~~and~~ consumers located in this State who signs a
5 fraudulent return filed on behalf of the corporation, or any
6 accountant or other agent who knowingly enters false
7 information on the return of any taxpayer under this Act is
8 guilty of a Class 4 felony.

9 Any person who violates any provision of Section 10-20,
10 10-21, ~~or~~ 10-22, or 10-24 of this Act, fails to keep books and
11 records as required under this Act, or willfully violates a
12 rule or regulation of the Department for the administration
13 and enforcement of this Act is guilty of a Class 4 felony. A
14 person commits a separate offense on each day that he or she
15 engages in business in violation of Section 10-20, 10-21, ~~or~~
16 10-22, or 10-24 of this Act. If a person fails to produce the
17 books and records for inspection by the Department upon
18 request, a prima facie presumption shall arise that the person
19 has failed to keep books and records as required under this
20 Act. A person who is unable to rebut this presumption is in
21 violation of this Act and is subject to the penalties provided
22 in this Section.

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

1 payment to the Department when due, is guilty of a Class 4
2 felony.

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

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

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

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

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

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

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

16 Any taxpayer or agent of a taxpayer who with the intent to
17 defraud purports to make a payment due to the Department by
18 issuing or delivering a check or other order upon a real or
19 fictitious depository for the payment of money, knowing that
20 it will not be paid by the depository, is guilty of a deceptive
21 practice in violation of Section 17-1 of the Criminal Code of
22 2012.

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

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

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