

1 AN ACT concerning tobacco.

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

4 Section 5. The Tobacco Product Manufacturers' Escrow Act
5 is amended by changing Section 15 as follows:

6 (30 ILCS 168/15)

7 Sec. 15. Requirements.

8 (a) Any tobacco product manufacturer selling cigarettes
9 to consumers within the State of Illinois (whether directly
10 or through a distributor, retailer, or similar intermediary
11 or intermediaries) after the effective date of this Act shall
12 do one of the following:

13 (1) become a participating manufacturer (as that
14 term is defined in Section II(jj) of the Master
15 Settlement Agreement) and generally perform its
16 financial obligations under the Master Settlement
17 Agreement; or

18 (2) (A) place into a qualified escrow fund by April
19 15 of the year following the year in question the
20 following amounts (as such amounts are adjusted for
21 inflation):

22 (i) For 1999: \$0.0094241 per unit sold
23 after the effective date of this Act;

24 (ii) For 2000: \$0.0104712 per unit sold;

25 (iii) For each of 2001 and 2002:
26 \$0.0136125 per unit sold;

27 (iv) For each of 2003 through 2006:
28 \$0.0167539 per unit sold;

29 (v) For each of 2007 and each year
30 thereafter: \$0.0188482 per unit sold.

31 (B) A tobacco product manufacturer that places

1 funds into escrow pursuant to subdivision (a)(2)(A)
 2 shall receive the interest or other appreciation on
 3 the funds as earned. The funds themselves shall be
 4 released from escrow only under the following
 5 circumstances:

6 (i) to pay a judgment or settlement on
 7 any released claim brought against the tobacco
 8 product manufacturer by the State or any
 9 releasing party located or residing in the
 10 State. Funds shall be released from escrow
 11 under this subdivision (a)(2)(B)(i): (I) in
 12 the order in which they were placed into
 13 escrow; and (II) only to the extent and at the
 14 time necessary to make payments required under
 15 such judgment or settlement;

16 (ii) to the extent that a tobacco product
 17 manufacturer establishes that the amount it was
 18 required to place into escrow on account of
 19 units sold in the State in a particular year
 20 was greater than the Master Settlement
 21 Agreement payments, as determined pursuant to
 22 Section IX(i) of that Agreement, after final
 23 determination of all adjustments, that the
 24 manufacturer would have been required to make
 25 on account of the units sold the--State's
 26 allocable share of the total payments that such
 27 manufacturer would have been required to make
 28 in--that--year--under--the--Master--Settlement
 29 Agreement--(as determined pursuant to--Section
 30 IX(i)(2)--of--the--Master Settlement Agreement,
 31 and before any of the adjustments or offsets
 32 described in Section IX(i)(3) of that Agreement
 33 other than the Inflation Adjustment) had it
 34 been a Participating Manufacturer, the excess

1 shall be released from escrow and revert back
2 to such tobacco product manufacturer; or

3 (iii) to the extent not released from
4 escrow under subdivisions (a)(2)(B)(i) or
5 (a)(2)(B)(ii), funds shall be released from
6 escrow and revert back to such tobacco product
7 manufacturer 25 years after the date on which
8 they were placed into escrow.

9 (C) Each tobacco product manufacturer that
10 elects to place funds into escrow pursuant to this
11 subdivision (a)(2) shall annually certify to the
12 Attorney General that it is in compliance with this
13 subdivision (a)(2). The Attorney General may bring
14 a civil action on behalf of the State of Illinois
15 against any tobacco product manufacturer that fails
16 to place into escrow the funds required under this
17 subdivision (a)(2). Any tobacco product
18 manufacturer that fails in any year to place into
19 escrow the funds required under this subdivision
20 (a)(2) shall:

21 (i) be required within 15 days to place
22 such funds into escrow as shall bring it into
23 compliance with this Section. The court, upon
24 a finding of a violation of this subdivision
25 (a)(2), may impose a civil penalty to be paid
26 into the General Revenue Fund in an amount not
27 to exceed 5% of the amount improperly withheld
28 from escrow per day of the violation and in a
29 total amount not to exceed 100% of the original
30 amount improperly withheld from escrow;

31 (ii) in the case of a knowing violation,
32 be required within 15 days to place such funds
33 into escrow as shall bring it into compliance
34 with this Section. The court, upon a finding

1 of a knowing violation of this subdivision
2 (a)(2), may impose a civil penalty to be paid
3 into the General Revenue Fund in an amount not
4 to exceed 15% of the amount improperly withheld
5 from escrow per day of the violation and in a
6 total amount not to exceed 300% of the original
7 amount improperly withheld from escrow; and

8 (iii) in the case of a second knowing
9 violation, be prohibited from selling
10 cigarettes to consumers within the State of
11 Illinois (whether directly or through a
12 distributor, retailer, or similar intermediary)
13 for a period not to exceed 2 years.

14 (b) Each failure to make an annual deposit required
15 under this Section shall constitute a separate violation. If
16 a tobacco product manufacturer is successfully prosecuted by
17 the Attorney General for a violation of subdivision (a)(2),
18 the tobacco product manufacturer must pay, in addition to any
19 fine imposed by a court, the State's costs and attorney's
20 fees incurred in the prosecution.

21 (Source: P.A. 91-41, eff. 6-30-99.)