



Sen. John J. Cullerton

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1 AMENDMENT TO HOUSE BILL 556

2 AMENDMENT NO. _____. Amend House Bill 556 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The General Obligation Bond Act is amended by
5 changing Section 14 as follows:

6 (30 ILCS 330/14) (from Ch. 127, par. 664)

7 Sec. 14. Repayment.

8 (a) To provide for the manner of repayment of Bonds, the
9 Governor shall include an appropriation in each annual State
10 Budget of monies in such amount as shall be necessary and
11 sufficient, for the period covered by such budget, to pay the
12 interest, as it shall accrue, on all Bonds issued under this
13 Act, to pay and discharge the principal of such Bonds as shall,
14 by their terms, fall due during such period, and to pay a
15 premium, if any, on Bonds to be redeemed prior to the maturity
16 date. Amounts included in such appropriations for the payment

1 of interest on variable rate bonds shall be the maximum amounts
2 of interest that may be payable for the period covered by the
3 budget, after taking into account any credits permitted in the
4 related indenture or other instrument against the amount of
5 such interest required to be appropriated for such period.
6 Amounts included in such appropriations for the payment of
7 interest shall include the amounts certified by the Director of
8 the Governor's Office of Management and Budget under subsection
9 (b) of Section 9 of this Act.

10 (b) A separate fund in the State Treasury called the
11 "General Obligation Bond Retirement and Interest Fund" is
12 hereby created.

13 (c) The General Assembly shall annually make
14 appropriations to pay the principal of, interest on, and
15 premium, if any, on Bonds sold under this Act from the General
16 Obligation Bond Retirement and Interest Fund. Amounts included
17 in such appropriations for the payment of interest on variable
18 rate bonds shall be the maximum amounts of interest that may be
19 payable during the fiscal year, after taking into account any
20 credits permitted in the related indenture or other instrument
21 against the amount of such interest required to be appropriated
22 for such period. Amounts included in such appropriations for
23 the payment of interest shall include the amounts certified by
24 the Director of the Governor's Office of Management and Budget
25 under subsection (b) of Section 9 of this Act.

26 Beginning October 1, 2007, on the first day of each month,

1 or as soon thereafter as practical, the State Comptroller shall
2 direct and the State Treasurer shall transfer, from the General
3 Revenue Fund to the General Obligation Bond Retirement and
4 Interest Fund, all amounts that were paid into the General
5 Revenue Fund in the previous month under Section 2 of the
6 Cigarette Tax Act from the additional taxes imposed under the
7 Cigarette Tax Act and the Cigarette Use Tax Act by this
8 amendatory Act of the 95th General Assembly.

9 If for any reason there are insufficient funds in either
10 the General Revenue Fund or the Road Fund to make transfers to
11 the General Obligation Bond Retirement and Interest Fund as
12 required by Section 15 of this Act, or if for any reason the
13 General Assembly fails to make appropriations sufficient to pay
14 the principal of, interest on, and premium, if any, on the
15 Bonds, as the same by their terms shall become due, this Act
16 shall constitute an irrevocable and continuing appropriation
17 of all amounts necessary for that purpose, and the irrevocable
18 and continuing authority for and direction to the State
19 Treasurer and the Comptroller to make the necessary transfers,
20 as directed by the Governor, out of and disbursements from the
21 revenues and funds of the State.

22 (d) If, because of insufficient funds in either the General
23 Revenue Fund or the Road Fund, monies have been transferred to
24 the General Obligation Bond Retirement and Interest Fund, as
25 required by subsection (c) of this Section, this Act shall
26 constitute the irrevocable and continuing authority for and

1 direction to the State Treasurer and Comptroller to reimburse
2 these funds of the State from the General Revenue Fund or the
3 Road Fund, as appropriate, by transferring, at such times and
4 in such amounts, as directed by the Governor, an amount to
5 these funds equal to that transferred from them.

6 (Source: P.A. 93-9, eff. 6-3-03; 94-793, eff. 5-19-06.)

7 Section 10. The Cigarette Tax Act is amended by changing
8 Sections 2 and 3 as follows:

9 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

10 Sec. 2. Tax imposed; rate; collection, payment, and
11 distribution; discount.

12 (a) A tax is imposed upon any person engaged in business as
13 a retailer of cigarettes in this State at the rate of 5 1/2
14 mills per cigarette sold, or otherwise disposed of in the
15 course of such business in this State. In addition to any other
16 tax imposed by this Act, a tax is imposed upon any person
17 engaged in business as a retailer of cigarettes in this State
18 at a rate of 1/2 mill per cigarette sold or otherwise disposed
19 of in the course of such business in this State on and after
20 January 1, 1947, and shall be paid into the Metropolitan Fair
21 and Exposition Authority Reconstruction Fund or as otherwise
22 provided in Section 29. On and after December 1, 1985, in
23 addition to any other tax imposed by this Act, a tax is imposed
24 upon any person engaged in business as a retailer of cigarettes

1 in this State at a rate of 4 mills per cigarette sold or
2 otherwise disposed of in the course of such business in this
3 State. Of the additional tax imposed by this amendatory Act of
4 1985, \$9,000,000 of the moneys received by the Department of
5 Revenue pursuant to this Act shall be paid each month into the
6 Common School Fund. On and after the effective date of this
7 amendatory Act of 1989, in addition to any other tax imposed by
8 this Act, a tax is imposed upon any person engaged in business
9 as a retailer of cigarettes at the rate of 5 mills per
10 cigarette sold or otherwise disposed of in the course of such
11 business in this State. On and after the effective date of this
12 amendatory Act of 1993, in addition to any other tax imposed by
13 this Act, a tax is imposed upon any person engaged in business
14 as a retailer of cigarettes at the rate of 7 mills per
15 cigarette sold or otherwise disposed of in the course of such
16 business in this State. On and after December 15, 1997, in
17 addition to any other tax imposed by this Act, a tax is imposed
18 upon any person engaged in business as a retailer of cigarettes
19 at the rate of 7 mills per cigarette sold or otherwise disposed
20 of in the course of such business of this State. All of the
21 moneys received by the Department of Revenue pursuant to this
22 Act and the Cigarette Use Tax Act from the additional taxes
23 imposed by this amendatory Act of 1997, shall be paid each
24 month into the Common School Fund. On and after July 1, 2002,
25 in addition to any other tax imposed by this Act, a tax is
26 imposed upon any person engaged in business as a retailer of

1 cigarettes at the rate of 20.0 mills per cigarette sold or
2 otherwise disposed of in the course of such business in this
3 State. Beginning on September 1, 2007 in addition to any other
4 tax imposed by this Act, a tax is imposed upon any person
5 engaged in business as a retailer of cigarettes at the rate of
6 37.5 mills per cigarette sold or otherwise disposed of in the
7 course of such business in this State. All of the moneys
8 received by the Department of Revenue under this Act and the
9 Cigarette Use Tax Act from the additional taxes imposed by this
10 amendatory Act of the 95th General Assembly must be paid each
11 month into the General Revenue Fund. The payment of such taxes
12 shall be evidenced by a stamp affixed to each original package
13 of cigarettes, or an authorized substitute for such stamp
14 imprinted on each original package of such cigarettes
15 underneath the sealed transparent outside wrapper of such
16 original package, as hereinafter provided. However, such taxes
17 are not imposed upon any activity in such business in
18 interstate commerce or otherwise, which activity may not under
19 the Constitution and statutes of the United States be made the
20 subject of taxation by this State.

21 ~~All Beginning on the effective date of this amendatory Act~~
22 ~~of the 92nd General Assembly and through June 30, 2006, all of~~
23 the moneys received by the Department of Revenue pursuant to
24 this Act and the Cigarette Use Tax Act, other than the moneys
25 that are dedicated to the Common School Fund, shall be
26 distributed each month as follows: first, there must be paid

1 into the General Revenue Fund, the amount required to be
2 deposited by this amendatory Act of the 95th General Assembly;
3 then there shall be paid into the General Revenue Fund an
4 amount which, when added to the amount paid into the Common
5 School Fund for that month, equals \$33,300,000, except that in
6 the month of August of 2004, this amount shall equal
7 \$83,300,000; then, from the moneys remaining, if any amounts
8 required to be paid into the General Revenue Fund in previous
9 months remain unpaid, those amounts shall be paid into the
10 General Revenue Fund; then, beginning on April 1, 2003, from
11 the moneys remaining, \$5,000,000 per month shall be paid into
12 the School Infrastructure Fund; then, if any amounts required
13 to be paid into the School Infrastructure Fund in previous
14 months remain unpaid, those amounts shall be paid into the
15 School Infrastructure Fund; then the moneys remaining, if any,
16 shall be paid into the Long-Term Care Provider Fund. To the
17 extent that more than \$25,000,000 has been paid into the
18 General Revenue Fund and Common School Fund per month for the
19 period of July 1, 1993 through the effective date of this
20 amendatory Act of 1994 from combined receipts of the Cigarette
21 Tax Act and the Cigarette Use Tax Act, notwithstanding the
22 distribution provided in this Section, the Department of
23 Revenue is hereby directed to adjust the distribution provided
24 in this Section to increase the next monthly payments to the
25 Long Term Care Provider Fund by the amount paid to the General
26 Revenue Fund and Common School Fund in excess of \$25,000,000

1 per month and to decrease the next monthly payments to the
2 General Revenue Fund and Common School Fund by that same excess
3 amount.

4 Beginning on July 1, 2006, all of the moneys received by
5 the Department of Revenue pursuant to this Act and the
6 Cigarette Use Tax Act, other than the moneys that are dedicated
7 to the Common School Fund, shall be distributed each month as
8 follows: first, there shall be paid into the General Revenue
9 Fund an amount that, when added to the amount paid into the
10 Common School Fund for that month, equals \$29,200,000; then,
11 from the moneys remaining, if any amounts required to be paid
12 into the General Revenue Fund in previous months remain unpaid,
13 those amounts shall be paid into the General Revenue Fund; then
14 from the moneys remaining, \$5,000,000 per month shall be paid
15 into the School Infrastructure Fund; then, if any amounts
16 required to be paid into the School Infrastructure Fund in
17 previous months remain unpaid, those amounts shall be paid into
18 the School Infrastructure Fund; then the moneys remaining, if
19 any, shall be paid into the Long-Term Care Provider Fund.

20 When any tax imposed herein terminates or has terminated,
21 distributors who have bought stamps while such tax was in
22 effect and who therefore paid such tax, but who can show, to
23 the Department's satisfaction, that they sold the cigarettes to
24 which they affixed such stamps after such tax had terminated
25 and did not recover the tax or its equivalent from purchasers,
26 shall be allowed by the Department to take credit for such

1 absorbed tax against subsequent tax stamp purchases from the
2 Department by such distributor.

3 The impact of the tax levied by this Act is imposed upon
4 the retailer and shall be prepaid or pre-collected by the
5 distributor for the purpose of convenience and facility only,
6 and the amount of the tax shall be added to the price of the
7 cigarettes sold by such distributor. Collection of the tax
8 shall be evidenced by a stamp or stamps affixed to each
9 original package of cigarettes, as hereinafter provided.

10 Each distributor shall collect the tax from the retailer at
11 or before the time of the sale, shall affix the stamps as
12 hereinafter required, and shall remit the tax collected from
13 retailers to the Department, as hereinafter provided. Any
14 distributor who fails to properly collect and pay the tax
15 imposed by this Act shall be liable for the tax. Any
16 distributor having cigarettes to which stamps have been affixed
17 in his possession for sale on the effective date of this
18 amendatory Act of 1989 shall not be required to pay the
19 additional tax imposed by this amendatory Act of 1989 on such
20 stamped cigarettes. Any distributor having cigarettes to which
21 stamps have been affixed in his or her possession for sale at
22 12:01 a.m. on the effective date of this amendatory Act of
23 1993, is required to pay the additional tax imposed by this
24 amendatory Act of 1993 on such stamped cigarettes. This
25 payment, less the discount provided in subsection (b), shall be
26 due when the distributor first makes a purchase of cigarette

1 tax stamps after the effective date of this amendatory Act of
2 1993, or on the first due date of a return under this Act after
3 the effective date of this amendatory Act of 1993, whichever
4 occurs first. Any distributor having cigarettes to which stamps
5 have been affixed in his possession for sale on December 15,
6 1997 shall not be required to pay the additional tax imposed by
7 this amendatory Act of 1997 on such stamped cigarettes.

8 Any distributor having cigarettes to which stamps have been
9 affixed in his or her possession for sale on July 1, 2002 shall
10 not be required to pay the additional tax imposed by this
11 amendatory Act of the 92nd General Assembly on those stamped
12 cigarettes. Any distributor having cigarettes to which stamps
13 have been affixed in his or her possession for sale on
14 September 1, 2007 is not required to pay the additional tax
15 imposed by this amendatory Act of the 95th General Assembly on
16 those stamped cigarettes.

17 The amount of the Cigarette Tax imposed by this Act shall
18 be separately stated, apart from the price of the goods, by
19 both distributors and retailers, in all advertisements, bills
20 and sales invoices.

21 (b) The distributor shall be required to collect the taxes
22 provided under paragraph (a) hereof, and, to cover the costs of
23 such collection, shall be allowed a discount during any year
24 commencing July 1st and ending the following June 30th in
25 accordance with the schedule set out hereinbelow, which
26 discount shall be allowed at the time of purchase of the stamps

1 when purchase is required by this Act, or at the time when the
2 tax is remitted to the Department without the purchase of
3 stamps from the Department when that method of paying the tax
4 is required or authorized by this Act. Prior to December 1,
5 1985, a discount equal to $1\frac{2}{3}\%$ of the amount of the tax up to
6 and including the first \$700,000 paid hereunder by such
7 distributor to the Department during any such year; $1\frac{1}{3}\%$ of
8 the next \$700,000 of tax or any part thereof, paid hereunder by
9 such distributor to the Department during any such year; 1% of
10 the next \$700,000 of tax, or any part thereof, paid hereunder
11 by such distributor to the Department during any such year, and
12 $\frac{2}{3}$ of 1% of the amount of any additional tax paid hereunder by
13 such distributor to the Department during any such year shall
14 apply. On and after December 1, 1985, a discount equal to 1.75%
15 of the amount of the tax payable under this Act up to and
16 including the first \$3,000,000 paid hereunder by such
17 distributor to the Department during any such year and 1.5% of
18 the amount of any additional tax paid hereunder by such
19 distributor to the Department during any such year shall apply.

20 Two or more distributors that use a common means of
21 affixing revenue tax stamps or that are owned or controlled by
22 the same interests shall be treated as a single distributor for
23 the purpose of computing the discount.

24 (c) The taxes herein imposed are in addition to all other
25 occupation or privilege taxes imposed by the State of Illinois,
26 or by any political subdivision thereof, or by any municipal

1 corporation.

2 (Source: P.A. 93-839, eff. 7-30-04; 94-91, eff. 7-1-05; 94-839,
3 eff. 6-6-06.)

4 (35 ILCS 130/3) (from Ch. 120, par. 453.3)

5 Sec. 3. Affixing tax stamp; remitting tax to the
6 Department. Payment of the taxes imposed by Section 2 of this
7 Act shall (except as hereinafter provided) be evidenced by
8 revenue tax stamps affixed to each original package of
9 cigarettes. Each distributor of cigarettes, before delivering
10 or causing to be delivered any original package of cigarettes
11 in this State to a purchaser, shall firmly affix a proper stamp
12 or stamps to each such package, or (in case of manufacturers of
13 cigarettes in original packages which are contained inside a
14 sealed transparent wrapper) shall imprint the required
15 language on the original package of cigarettes beneath such
16 outside wrapper, as hereinafter provided.

17 No stamp or imprint may be affixed to, or made upon, any
18 package of cigarettes unless that package complies with all
19 requirements of the federal Cigarette Labeling and Advertising
20 Act, 15 U.S.C. 1331 and following, for the placement of labels,
21 warnings, or any other information upon a package of cigarettes
22 that is sold within the United States. Under the authority of
23 Section 6, the Department shall revoke the license of any
24 distributor that is determined to have violated this paragraph.
25 A person may not affix a stamp on a package of cigarettes,

1 cigarette papers, wrappers, or tubes if that individual package
2 has been marked for export outside the United States with a
3 label or notice in compliance with Section 290.185 of Title 27
4 of the Code of Federal Regulations. It is not a defense to a
5 proceeding for violation of this paragraph that the label or
6 notice has been removed, mutilated, obliterated, or altered in
7 any manner.

8 The Department, or any person authorized by the Department,
9 shall sell such stamps only to persons holding valid licenses
10 as distributors under this Act. On and after July 1, 2003,
11 payment for such stamps must be made by means of electronic
12 funds transfer. The Department may refuse to sell stamps to any
13 person who does not comply with the provisions of this Act.

14 Beginning on the effective date of this amendatory Act of
15 the 92nd General Assembly and through June 30, 2002, persons
16 holding valid licenses as distributors may purchase cigarette
17 tax stamps up to an amount equal to 115% of the distributor's
18 average monthly cigarette tax stamp purchases over the 12
19 calendar months prior to the effective date of this amendatory
20 Act of the 92nd General Assembly.

21 Beginning on the effective date of this amendatory Act of
22 the 95th General Assembly and through August 31, 2007, persons
23 holding valid licenses as distributors may purchase cigarette
24 tax stamps up to an amount equal to 115% of the distributor's
25 average monthly cigarette tax stamp purchases over the 12
26 calendar months prior to the effective date of this amendatory

1 Act of the 95th General Assembly.

2 Prior to December 1, 1985, the Department shall allow a
3 distributor 21 days in which to make final payment of the
4 amount to be paid for such stamps, by allowing the distributor
5 to make payment for the stamps at the time of purchasing them
6 with a draft which shall be in such form as the Department
7 prescribes, and which shall be payable within 21 days
8 thereafter: Provided that such distributor has filed with the
9 Department, and has received the Department's approval of, a
10 bond, which is in addition to the bond required under Section 4
11 of this Act, payable to the Department in an amount equal to
12 80% of such distributor's average monthly tax liability to the
13 Department under this Act during the preceding calendar year or
14 \$500,000, whichever is less. The Bond shall be joint and
15 several and shall be in the form of a surety company bond in
16 such form as the Department prescribes, or it may be in the
17 form of a bank certificate of deposit or bank letter of credit.
18 The bond shall be conditioned upon the distributor's payment of
19 amount of any 21-day draft which the Department accepts from
20 that distributor for the delivery of stamps to that distributor
21 under this Act. The distributor's failure to pay any such
22 draft, when due, shall also make such distributor automatically
23 liable to the Department for a penalty equal to 25% of the
24 amount of such draft.

25 On and after December 1, 1985 and until July 1, 2003, the
26 Department shall allow a distributor 30 days in which to make

1 final payment of the amount to be paid for such stamps, by
2 allowing the distributor to make payment for the stamps at the
3 time of purchasing them with a draft which shall be in such
4 form as the Department prescribes, and which shall be payable
5 within 30 days thereafter, and beginning on January 1, 2003 and
6 thereafter, the draft shall be payable by means of electronic
7 funds transfer: Provided that such distributor has filed with
8 the Department, and has received the Department's approval of,
9 a bond, which is in addition to the bond required under Section
10 4 of this Act, payable to the Department in an amount equal to
11 150% of such distributor's average monthly tax liability to the
12 Department under this Act during the preceding calendar year or
13 \$750,000, whichever is less, except that as to bonds filed on
14 or after January 1, 1987, such additional bond shall be in an
15 amount equal to 100% of such distributor's average monthly tax
16 liability under this Act during the preceding calendar year or
17 \$750,000, whichever is less. The bond shall be joint and
18 several and shall be in the form of a surety company bond in
19 such form as the Department prescribes, or it may be in the
20 form of a bank certificate of deposit or bank letter of credit.
21 The bond shall be conditioned upon the distributor's payment of
22 the amount of any 30-day draft which the Department accepts
23 from that distributor for the delivery of stamps to that
24 distributor under this Act. The distributor's failure to pay
25 any such draft, when due, shall also make such distributor
26 automatically liable to the Department for a penalty equal to

1 25% of the amount of such draft.

2 Every prior continuous compliance taxpayer shall be exempt
3 from all requirements under this Section concerning the
4 furnishing of such bond, as defined in this Section, as a
5 condition precedent to his being authorized to engage in the
6 business licensed under this Act. This exemption shall continue
7 for each such taxpayer until such time as he may be determined
8 by the Department to be delinquent in the filing of any
9 returns, or is determined by the Department (either through the
10 Department's issuance of a final assessment which has become
11 final under the Act, or by the taxpayer's filing of a return
12 which admits tax to be due that is not paid) to be delinquent
13 or deficient in the paying of any tax under this Act, at which
14 time that taxpayer shall become subject to the bond
15 requirements of this Section and, as a condition of being
16 allowed to continue to engage in the business licensed under
17 this Act, shall be required to furnish bond to the Department
18 in such form as provided in this Section. Such taxpayer shall
19 furnish such bond for a period of 2 years, after which, if the
20 taxpayer has not been delinquent in the filing of any returns,
21 or delinquent or deficient in the paying of any tax under this
22 Act, the Department may reinstate such person as a prior
23 continuance compliance taxpayer. Any taxpayer who fails to pay
24 an admitted or established liability under this Act may also be
25 required to post bond or other acceptable security with the
26 Department guaranteeing the payment of such admitted or

1 established liability.

2 Any person aggrieved by any decision of the Department
3 under this Section may, within the time allowed by law, protest
4 and request a hearing, whereupon the Department shall give
5 notice and shall hold a hearing in conformity with the
6 provisions of this Act and then issue its final administrative
7 decision in the matter to such person. In the absence of such a
8 protest filed within the time allowed by law, the Department's
9 decision shall become final without any further determination
10 being made or notice given.

11 The Department shall discharge any surety and shall release
12 and return any bond or security deposited, assigned, pledged,
13 or otherwise provided to it by a taxpayer under this Section
14 within 30 days after:

15 (1) Such taxpayer becomes a prior continuous compliance
16 taxpayer; or

17 (2) Such taxpayer has ceased to collect receipts on which
18 he is required to remit tax to the Department, has filed a
19 final tax return, and has paid to the Department an amount
20 sufficient to discharge his remaining tax liability as
21 determined by the Department under this Act. The Department
22 shall make a final determination of the taxpayer's outstanding
23 tax liability as expeditiously as possible after his final tax
24 return has been filed. If the Department cannot make such final
25 determination within 45 days after receiving the final tax
26 return, within such period it shall so notify the taxpayer,

1 stating its reasons therefor.

2 The Department may authorize distributors to affix revenue
3 tax stamps by imprinting tax meter stamps upon original
4 packages of cigarettes. The Department shall adopt rules and
5 regulations relating to the imprinting of such tax meter stamps
6 as will result in payment of the proper taxes as herein
7 imposed. No distributor may affix revenue tax stamps to
8 original packages of cigarettes by imprinting tax meter stamps
9 thereon unless such distributor has first obtained permission
10 from the Department to employ this method of affixation. The
11 Department shall regulate the use of tax meters and may, to
12 assure the proper collection of the taxes imposed by this Act,
13 revoke or suspend the privilege, theretofore granted by the
14 Department to any distributor, to imprint tax meter stamps upon
15 original packages of cigarettes.

16 Illinois cigarette manufacturers who place their
17 cigarettes in original packages which are contained inside a
18 sealed transparent wrapper, and similar out-of-State cigarette
19 manufacturers who elect to qualify and are accepted by the
20 Department as distributors under Section 4b of this Act, shall
21 pay the taxes imposed by this Act by remitting the amount
22 thereof to the Department by the 5th day of each month covering
23 cigarettes shipped or otherwise delivered in Illinois to
24 purchasers during the preceding calendar month. Such
25 manufacturers of cigarettes in original packages which are
26 contained inside a sealed transparent wrapper, before

1 delivering such cigarettes or causing such cigarettes to be
2 delivered in this State to purchasers, shall evidence their
3 obligation to remit the taxes due with respect to such
4 cigarettes by imprinting language to be prescribed by the
5 Department on each original package of such cigarettes
6 underneath the sealed transparent outside wrapper of such
7 original package, in such place thereon and in such manner as
8 the Department may designate. Such imprinted language shall
9 acknowledge the manufacturer's payment of or liability for the
10 tax imposed by this Act with respect to the distribution of
11 such cigarettes.

12 A distributor shall not affix, or cause to be affixed, any
13 stamp or imprint to a package of cigarettes, as provided for in
14 this Section, if the tobacco product manufacturer, as defined
15 in Section 10 of the Tobacco Product Manufacturers' Escrow Act,
16 that made or sold the cigarettes has failed to become a
17 participating manufacturer, as defined in subdivision (a)(1)
18 of Section 15 of the Tobacco Product Manufacturers' Escrow Act,
19 or has failed to create a qualified escrow fund for any
20 cigarettes manufactured by the tobacco product manufacturer
21 and sold in this State or otherwise failed to bring itself into
22 compliance with subdivision (a)(2) of Section 15 of the Tobacco
23 Product Manufacturers' Escrow Act.

24 (Source: P.A. 92-322, eff. 1-1-02; 92-536, eff. 6-6-02; 92-737,
25 eff. 7-25-02; 93-22, eff. 6-20-03.)

1 Section 15. The Cigarette Use Tax Act is amended by
2 changing Sections 2 and 3 as follows:

3 (35 ILCS 135/2) (from Ch. 120, par. 453.32)

4 Sec. 2. A tax is imposed upon the privilege of using
5 cigarettes in this State, at the rate of 6 mills per cigarette
6 so used. On and after December 1, 1985, in addition to any
7 other tax imposed by this Act, a tax is imposed upon the
8 privilege of using cigarettes in this State at a rate of 4
9 mills per cigarette so used. On and after the effective date of
10 this amendatory Act of 1989, in addition to any other tax
11 imposed by this Act, a tax is imposed upon the privilege of
12 using cigarettes in this State at the rate of 5 mills per
13 cigarette so used. On and after the effective date of this
14 amendatory Act of 1993, in addition to any other tax imposed by
15 this Act, a tax is imposed upon the privilege of using
16 cigarettes in this State at a rate of 7 mills per cigarette so
17 used. On and after December 15, 1997, in addition to any other
18 tax imposed by this Act, a tax is imposed upon the privilege of
19 using cigarettes in this State at a rate of 7 mills per
20 cigarette so used. On and after July 1, 2002, in addition to
21 any other tax imposed by this Act, a tax is imposed upon the
22 privilege of using cigarettes in this State at a rate of 20.0
23 mills per cigarette so used. Beginning on September 1, 2007, in
24 addition to any other tax imposed by this Act, a tax is imposed
25 upon the privilege of using cigarettes in this State at a rate

1 of 37.5 mills per cigarette so used. The taxes herein imposed
2 shall be in addition to all other occupation or privilege taxes
3 imposed by the State of Illinois or by any political
4 subdivision thereof or by any municipal corporation.

5 When any tax imposed herein terminates or has terminated,
6 distributors who have bought stamps while such tax was in
7 effect and who therefore paid such tax, but who can show, to
8 the Department's satisfaction, that they sold the cigarettes to
9 which they affixed such stamps after such tax had terminated
10 and did not recover the tax or its equivalent from purchasers,
11 shall be allowed by the Department to take credit for such
12 absorbed tax against subsequent tax stamp purchases from the
13 Department by such distributors.

14 When the word "tax" is used in this Act, it shall include
15 any tax or tax rate imposed by this Act and shall mean the
16 singular of "tax" or the plural "taxes" as the context may
17 require.

18 Any distributor having cigarettes to which stamps have been
19 affixed in his possession for sale on the effective date of
20 this amendatory Act of 1989 shall not be required to pay the
21 additional tax imposed by this amendatory Act of 1989 on such
22 stamped cigarettes. Any distributor having cigarettes to which
23 stamps have been affixed in his or her possession for sale at
24 12:01 a.m. on the effective date of this amendatory Act of
25 1993, is required to pay the additional tax imposed by this
26 amendatory Act of 1993 on such stamped cigarettes. This payment

1 shall be due when the distributor first makes a purchase of
2 cigarette tax stamps after the effective date of this
3 amendatory Act of 1993, or on the first due date of a return
4 under this Act after the effective date of this amendatory Act
5 of 1993, whichever occurs first. Once a distributor tenders
6 payment of the additional tax to the Department, the
7 distributor may purchase stamps from the Department. Any
8 distributor having cigarettes to which stamps have been affixed
9 in his possession for sale on December 15, 1997 shall not be
10 required to pay the additional tax imposed by this amendatory
11 Act of 1997 on such stamped cigarettes.

12 Any distributor having cigarettes to which stamps have been
13 affixed in his or her possession for sale on July 1, 2002 shall
14 not be required to pay the additional tax imposed by this
15 amendatory Act of the 92nd General Assembly on those stamped
16 cigarettes. Any distributor having cigarettes to which stamps
17 have been affixed in his or her possession for sale on
18 September 1, 2007 is not required to pay the additional tax
19 imposed by this amendatory Act of the 95th General Assembly on
20 those stamped cigarettes.

21 (Source: P.A. 92-536, eff. 6-6-02.)

22 (35 ILCS 135/3) (from Ch. 120, par. 453.33)

23 Sec. 3. Stamp payment. The tax hereby imposed shall be
24 collected by a distributor maintaining a place of business in
25 this State or a distributor authorized by the Department

1 pursuant to Section 7 hereof to collect the tax, and the amount
2 of the tax shall be added to the price of the cigarettes sold
3 by such distributor. Collection of the tax shall be evidenced
4 by a stamp or stamps affixed to each original package of
5 cigarettes or by an authorized substitute for such stamp
6 imprinted on each original package of such cigarettes
7 underneath the sealed transparent outside wrapper of such
8 original package, except as hereinafter provided. Each
9 distributor who is required or authorized to collect the tax
10 herein imposed, before delivering or causing to be delivered
11 any original packages of cigarettes in this State to any
12 purchaser, shall firmly affix a proper stamp or stamps to each
13 such package, or (in the case of manufacturers of cigarettes in
14 original packages which are contained inside a sealed
15 transparent wrapper) shall imprint the required language on the
16 original package of cigarettes beneath such outside wrapper as
17 hereinafter provided. Such stamp or stamps need not be affixed
18 to the original package of any cigarettes with respect to which
19 the distributor is required to affix a like stamp or stamps by
20 virtue of the Cigarette Tax Act, however, and no tax imprint
21 need be placed underneath the sealed transparent wrapper of an
22 original package of cigarettes with respect to which the
23 distributor is required or authorized to employ a like tax
24 imprint by virtue of the Cigarette Tax Act.

25 No stamp or imprint may be affixed to, or made upon, any
26 package of cigarettes unless that package complies with all

1 requirements of the federal Cigarette Labeling and Advertising
2 Act, 15 U.S.C. 1331 and following, for the placement of labels,
3 warnings, or any other information upon a package of cigarettes
4 that is sold within the United States. Under the authority of
5 Section 6, the Department shall revoke the license of any
6 distributor that is determined to have violated this paragraph.
7 A person may not affix a stamp on a package of cigarettes,
8 cigarette papers, wrappers, or tubes if that individual package
9 has been marked for export outside the United States with a
10 label or notice in compliance with Section 290.185 of Title 27
11 of the Code of Federal Regulations. It is not a defense to a
12 proceeding for violation of this paragraph that the label or
13 notice has been removed, mutilated, obliterated, or altered in
14 any manner.

15 Stamps, when required hereunder, shall be purchased from
16 the Department, or any person authorized by the Department, by
17 distributors. On and after July 1, 2003, payment for such
18 stamps must be made by means of electronic funds transfer. The
19 Department may refuse to sell stamps to any person who does not
20 comply with the provisions of this Act.

21 Beginning on June 6, 2002 and through June 30, 2002,
22 persons holding valid licenses as distributors may purchase
23 cigarette tax stamps up to an amount equal to 115% of the
24 distributor's average monthly cigarette tax stamp purchases
25 over the 12 calendar months prior to June 6, 2002.

26 Beginning on the effective date of this amendatory Act of

1 the 95th General Assembly and through August 31, 2007, persons
2 holding valid licenses as distributors may purchase cigarette
3 tax stamps up to an amount equal to 115% of the distributor's
4 average monthly cigarette tax stamp purchases over the 12
5 calendar months prior to the effective date of this amendatory
6 Act of the 95th General Assembly.

7 Prior to December 1, 1985, the Department shall allow a
8 distributor 21 days in which to make final payment of the
9 amount to be paid for such stamps, by allowing the distributor
10 to make payment for the stamps at the time of purchasing them
11 with a draft which shall be in such form as the Department
12 prescribes, and which shall be payable within 21 days
13 thereafter: Provided that such distributor has filed with the
14 Department, and has received the Department's approval of, a
15 bond, which is in addition to the bond required under Section 4
16 of this Act, payable to the Department in an amount equal to
17 80% of such distributor's average monthly tax liability to the
18 Department under this Act during the preceding calendar year or
19 \$500,000, whichever is less. The bond shall be joint and
20 several and shall be in the form of a surety company bond in
21 such form as the Department prescribes, or it may be in the
22 form of a bank certificate of deposit or bank letter of credit.
23 The bond shall be conditioned upon the distributor's payment of
24 the amount of any 21-day draft which the Department accepts
25 from that distributor for the delivery of stamps to that
26 distributor under this Act. The distributor's failure to pay

1 any such draft, when due, shall also make such distributor
2 automatically liable to the Department for a penalty equal to
3 25% of the amount of such draft.

4 On and after December 1, 1985 and until July 1, 2003, the
5 Department shall allow a distributor 30 days in which to make
6 final payment of the amount to be paid for such stamps, by
7 allowing the distributor to make payment for the stamps at the
8 time of purchasing them with a draft which shall be in such
9 form as the Department prescribes, and which shall be payable
10 within 30 days thereafter, and beginning on January 1, 2003 and
11 thereafter, the draft shall be payable by means of electronic
12 funds transfer: Provided that such distributor has filed with
13 the Department, and has received the Department's approval of,
14 a bond, which is in addition to the bond required under Section
15 4 of this Act, payable to the Department in an amount equal to
16 150% of such distributor's average monthly tax liability to the
17 Department under this Act during the preceding calendar year or
18 \$750,000, whichever is less, except that as to bonds filed on
19 or after January 1, 1987, such additional bond shall be in an
20 amount equal to 100% of such distributor's average monthly tax
21 liability under this Act during the preceding calendar year or
22 \$750,000, whichever is less. The bond shall be joint and
23 several and shall be in the form of a surety company bond in
24 such form as the Department prescribes, or it may be in the
25 form of a bank certificate of deposit or bank letter of credit.
26 The bond shall be conditioned upon the distributor's payment of

1 the amount of any 30-day draft which the Department accepts
2 from that distributor for the delivery of stamps to that
3 distributor under this Act. The distributor's failure to pay
4 any such draft, when due, shall also make such distributor
5 automatically liable to the Department for a penalty equal to
6 25% of the amount of such draft.

7 Every prior continuous compliance taxpayer shall be exempt
8 from all requirements under this Section concerning the
9 furnishing of such bond, as defined in this Section, as a
10 condition precedent to his being authorized to engage in the
11 business licensed under this Act. This exemption shall continue
12 for each such taxpayer until such time as he may be determined
13 by the Department to be delinquent in the filing of any
14 returns, or is determined by the Department (either through the
15 Department's issuance of a final assessment which has become
16 final under the Act, or by the taxpayer's filing of a return
17 which admits tax to be due that is not paid) to be delinquent
18 or deficient in the paying of any tax under this Act, at which
19 time that taxpayer shall become subject to the bond
20 requirements of this Section and, as a condition of being
21 allowed to continue to engage in the business licensed under
22 this Act, shall be required to furnish bond to the Department
23 in such form as provided in this Section. Such taxpayer shall
24 furnish such bond for a period of 2 years, after which, if the
25 taxpayer has not been delinquent in the filing of any returns,
26 or delinquent or deficient in the paying of any tax under this

1 Act, the Department may reinstate such person as a prior
2 continuance compliance taxpayer. Any taxpayer who fails to pay
3 an admitted or established liability under this Act may also be
4 required to post bond or other acceptable security with the
5 Department guaranteeing the payment of such admitted or
6 established liability.

7 Any person aggrieved by any decision of the Department
8 under this Section may, within the time allowed by law, protest
9 and request a hearing, whereupon the Department shall give
10 notice 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 such person. In the absence of such a
13 protest filed within the time allowed by law, the Department's
14 decision shall become final without any further determination
15 being made or notice given.

16 The Department shall discharge any surety and shall release
17 and return any bond or security deposited, assigned, pledged,
18 or otherwise provided to it by a taxpayer under this Section
19 within 30 days after:

20 (1) such Taxpayer becomes a prior continuous
21 compliance taxpayer; or

22 (2) such taxpayer has ceased to collect receipts on
23 which he is required to remit tax to the Department, has
24 filed a final tax return, and has paid to the Department an
25 amount sufficient to discharge his remaining tax liability
26 as determined by the Department under this Act. The

1 Department shall make a final determination of the
2 taxpayer's outstanding tax liability as expeditiously as
3 possible after his final tax return has been filed. If the
4 Department cannot make such final determination within 45
5 days after receiving the final tax return, within such
6 period it shall so notify the taxpayer, stating its reasons
7 therefor.

8 At the time of purchasing such stamps from the Department
9 when purchase is required by this Act, or at the time when the
10 tax which he has collected is remitted by a distributor to the
11 Department without the purchase of stamps from the Department
12 when that method of remitting the tax that has been collected
13 is required or authorized by this Act, the distributor shall be
14 allowed a discount during any year commencing July 1 and ending
15 the following June 30 in accordance with the schedule set out
16 hereinbelow, from the amount to be paid by him to the
17 Department for such stamps, or to be paid by him to the
18 Department on the basis of monthly remittances (as the case may
19 be), to cover the cost, to such distributor, of collecting the
20 tax herein imposed by affixing such stamps to the original
21 packages of cigarettes sold by such distributor or by placing
22 tax imprints underneath the sealed transparent wrapper of
23 original packages of cigarettes sold by such distributor (as
24 the case may be): (1) Prior to December 1, 1985, a discount
25 equal to 1-2/3% of the amount of the tax up to and including
26 the first \$700,000 paid hereunder by such distributor to the

1 Department during any such year; 1-1/3% of the next \$700,000 of
2 tax or any part thereof, paid hereunder by such distributor to
3 the Department during any such year; 1% of the next \$700,000 of
4 tax, or any part thereof, paid hereunder by such distributor to
5 the Department during any such year; and 2/3 of 1% of the
6 amount of any additional tax paid hereunder by such distributor
7 to the Department during any such year or (2) On and after
8 December 1, 1985, a discount equal to 1.75% of the amount of
9 the tax payable under this Act up to and including the first
10 \$3,000,000 paid hereunder by such distributor to the Department
11 during any such year and 1.5% of the amount of any additional
12 tax paid hereunder by such distributor to the Department during
13 any such year.

14 Two or more distributors that use a common means of
15 affixing revenue tax stamps or that are owned or controlled by
16 the same interests shall be treated as a single distributor for
17 the purpose of computing the discount.

18 Cigarette manufacturers who are distributors under this
19 Act, and who place their cigarettes in original packages which
20 are contained inside a sealed transparent wrapper, shall be
21 required to remit the tax which they are required to collect
22 under this Act to the Department by remitting the amount
23 thereof to the Department by the 5th day of each month,
24 covering cigarettes shipped or otherwise delivered to points in
25 Illinois to purchasers during the preceding calendar month, but
26 a distributor need not remit to the Department the tax so

1 collected by him from purchasers under this Act to the extent
2 to which such distributor is required to remit the tax imposed
3 by the Cigarette Tax Act to the Department with respect to the
4 same cigarettes. All taxes upon cigarettes under this Act are a
5 direct tax upon the retail consumer and shall conclusively be
6 presumed to be precollected for the purpose of convenience and
7 facility only. Distributors who are manufacturers of
8 cigarettes in original packages which are contained inside a
9 sealed transparent wrapper, before delivering such cigarettes
10 or causing such cigarettes to be delivered in this State to
11 purchasers, shall evidence their obligation to collect and
12 remit the tax due with respect to such cigarettes by imprinting
13 language to be prescribed by the Department on each original
14 package of such cigarettes underneath the sealed transparent
15 outside wrapper of such original package, in such place thereon
16 and in such manner as the Department may prescribe; provided
17 (as stated hereinbefore) that this requirement does not apply
18 when such distributor is required or authorized by the
19 Cigarette Tax Act to place the tax imprint provided for in the
20 last paragraph of Section 3 of that Act underneath the sealed
21 transparent wrapper of such original package of cigarettes.
22 Such imprinted language shall acknowledge the manufacturer's
23 collection and payment of or liability for the tax imposed by
24 this Act with respect to such cigarettes.

25 The Department shall adopt the design or designs of the tax
26 stamps and shall procure the printing of such stamps in such

1 amounts and denominations as it deems necessary to provide for
2 the affixation of the proper amount of tax stamps to each
3 original package of cigarettes.

4 Where tax stamps are required, the Department may authorize
5 distributors to affix revenue tax stamps by imprinting tax
6 meter stamps upon original packages of cigarettes. The
7 Department shall adopt rules and regulations relating to the
8 imprinting of such tax meter stamps as will result in payment
9 of the proper taxes as herein imposed. No distributor may affix
10 revenue tax stamps to original packages of cigarettes by
11 imprinting meter stamps thereon unless such distributor has
12 first obtained permission from the Department to employ this
13 method of affixation. The Department shall regulate the use of
14 tax meters and may, to assure the proper collection of the
15 taxes imposed by this Act, revoke or suspend the privilege,
16 theretofore granted by the Department to any distributor, to
17 imprint tax meter stamps upon original packages of cigarettes.

18 The tax hereby imposed and not paid pursuant to this
19 Section shall be paid to the Department directly by any person
20 using such cigarettes within this State, pursuant to Section 12
21 hereof.

22 A distributor shall not affix, or cause to be affixed, any
23 stamp or imprint to a package of cigarettes, as provided for in
24 this Section, if the tobacco product manufacturer, as defined
25 in Section 10 of the Tobacco Product Manufacturers' Escrow Act,
26 that made or sold the cigarettes has failed to become a

1 participating manufacturer, as defined in subdivision (a)(1)
2 of Section 15 of the Tobacco Product Manufacturers' Escrow Act,
3 or has failed to create a qualified escrow fund for any
4 cigarettes manufactured by the tobacco product manufacturer
5 and sold in this State or otherwise failed to bring itself into
6 compliance with subdivision (a)(2) of Section 15 of the Tobacco
7 Product Manufacturers' Escrow Act.

8 (Source: P.A. 92-322, eff. 1-1-02; 92-536, eff. 6-6-02; 92-737,
9 eff. 7-25-02; 93-22, eff. 6-20-03.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law."