



Sen. Terry Link

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1 AMENDMENT TO SENATE BILL 801

2 AMENDMENT NO. _____. Amend Senate Bill 801 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Cigarette Tax Act is amended by changing
5 Sections 1, 3, 3-10, 4, 11, 20, and 21 and by adding Sections
6 3-15, 3-20, 4c, 4d, 4e, 4f, 4g, 6a, and 11a as follows:

7 (35 ILCS 130/1) (from Ch. 120, par. 453.1)

8 Sec. 1. For the purposes of this Act:

9 "Brand Style" means a variety of cigarettes distinguished
10 by the tobacco used, tar and nicotine content, flavoring used,
11 size of the cigarette, filtration on the cigarette or
12 packaging. "Cigarette", means any ~~when used in this Act, shall~~
13 ~~be construed to mean: Any~~ roll for smoking made wholly or in
14 part of tobacco irrespective of size or shape and whether or
15 not such tobacco is flavored, adulterated or mixed with any
16 other ingredient, and the wrapper or cover of which is made of

1 paper or any other substance or material except tobacco.

2 "Contraband cigarettes" means:

3 (a) cigarettes that do not bear a required tax stamp
4 under this Act;

5 (b) cigarettes for which any required federal taxes
6 have not been paid;

7 (c) cigarettes that bear a counterfeit tax stamp;

8 (d) cigarettes that are manufactured, fabricated,
9 assembled, processed, packaged, or labeled by any person
10 other than (i) the owner of the trademark rights in the
11 cigarette brand or (ii) a person that is directly or
12 indirectly authorized by such owner; or

13 (e) cigarettes imported into the United States, or
14 otherwise distributed, in violation of the federal
15 Imported Cigarette Compliance Act of 2000 (Title IV of
16 Public Law 106-476).

17 "Person" means any natural individual, firm, partnership,
18 association, joint stock company, joint adventure, public or
19 private corporation, however formed, limited liability
20 company, or a receiver, executor, administrator, trustee,
21 guardian or other representative appointed by order of any
22 court.

23 "Prior Continuous Compliance Taxpayer" means any person
24 who is licensed under this Act and who, having been a licensee
25 for a continuous period of 5 years, is determined by the
26 Department not to have been either delinquent or deficient in

1 the payment of tax liability during that period or otherwise in
2 violation of this Act. Also, any taxpayer who has, as verified
3 by the Department, continuously complied with the condition of
4 his bond or other security under provisions of this Act for a
5 period of 5 consecutive years shall be considered to be a
6 "Prior continuous compliance taxpayer". In calculating the
7 consecutive period of time described herein for qualification
8 as a "prior continuous compliance taxpayer", a consecutive
9 period of time of qualifying compliance immediately prior to
10 the effective date of this amendatory Act of 1987 shall be
11 credited to any licensee who became licensed on or before the
12 effective date of this amendatory Act of 1987.

13 "Department" means the Department of Revenue.

14 "Sale" means any transfer, exchange or barter in any manner
15 or by any means whatsoever for a consideration, and includes
16 and means all sales made by any person.

17 "Original Package" means the individual packet, box or
18 other container whatsoever used to contain and to convey
19 cigarettes to the consumer.

20 "Distributor" means any and each of the following:

21 (1) Any person engaged in the business of selling
22 cigarettes in this State who brings or causes to be brought
23 into this State from without this State any original packages
24 of cigarettes, on which original packages there is no
25 authorized evidence underneath a sealed transparent wrapper
26 showing that the tax liability imposed by this Act has been

1 paid or assumed by the out-of-State seller of such cigarettes,
2 for sale or other disposition in the course of such business.

3 (2) Any person who makes, manufactures or fabricates
4 cigarettes in this State for sale in this State, except a
5 person who makes, manufactures or fabricates cigarettes as a
6 part of a correctional industries program for sale to residents
7 incarcerated in penal institutions or resident patients of a
8 State-operated mental health facility.

9 (3) Any person who makes, manufactures or fabricates
10 cigarettes outside this State, which cigarettes are placed in
11 original packages contained in sealed transparent wrappers,
12 for delivery or shipment into this State, and who elects to
13 qualify and is accepted by the Department as a distributor
14 under Section 4b of this Act.

15 "Place of business" shall mean and include any place where
16 cigarettes are sold or where cigarettes are manufactured,
17 stored or kept for the purpose of sale or consumption,
18 including any vessel, vehicle, airplane, train or vending
19 machine.

20 "Business" means any trade, occupation, activity or
21 enterprise engaged in for the purpose of selling cigarettes in
22 this State.

23 "Retailer" means any person who engages in the making of
24 transfers of the ownership of, or title to, cigarettes to a
25 purchaser for use or consumption and not for resale in any
26 form, for a valuable consideration. "Retailer" does not include

1 a person:

2 (1) who transfers to residents incarcerated in penal
3 institutions or resident patients of a State-operated
4 mental health facility ownership of cigarettes made,
5 manufactured, or fabricated as part of a correctional
6 industries program; or

7 (2) who transfers cigarettes to a not-for-profit
8 research institution that conducts tests concerning the
9 health effects of tobacco products and who does not offer
10 the cigarettes for resale.

11 "Retailer" shall be construed to include any person who
12 engages in the making of transfers of the ownership of, or
13 title to, cigarettes to a purchaser, for use or consumption by
14 any other person to whom such purchaser may transfer the
15 cigarettes without a valuable consideration, except a person
16 who transfers to residents incarcerated in penal institutions
17 or resident patients of a State-operated mental health facility
18 ownership of cigarettes made, manufactured or fabricated as
19 part of a correctional industries program.

20 "Stamp" or "stamps" mean the indicia required to be placed
21 on a pack of cigarettes that evidence payment of the tax on
22 cigarettes under Section 2 of this Act (35 ILCS 130/2), or the
23 indicia used to indicate that the cigarettes are intended for a
24 sale or distribution within this State that is exempt from
25 State tax under any applicable provision of law.

26 "Within this State" means within the exterior limits of the

1 State of Illinois and includes all territory within these
2 limits owned by or ceded to the United States of America.

3 "Related party" means any person that is associated with
4 any other person because he or she:

5 (a) is an officer or director of a business;

6 (b) is legally recognized as a partner in business; or

7 (c) is directly or indirectly controlled by another.

8 (Source: P.A. 95-462, eff. 8-27-07.)

9 (35 ILCS 130/3) (from Ch. 120, par. 453.3)

10 Sec. 3. Affixing tax stamp; remitting tax to the
11 Department. Payment of the taxes imposed by Section 2 of this
12 Act shall (except as hereinafter provided) be evidenced by
13 revenue tax stamps affixed to each original package of
14 cigarettes. Each distributor of cigarettes, before delivering
15 or causing to be delivered any original package of cigarettes
16 in this State to a purchaser, shall firmly affix a proper stamp
17 or stamps to each such package, or (in case of manufacturers of
18 cigarettes in original packages which are contained inside a
19 sealed transparent wrapper) shall imprint the required
20 language on the original package of cigarettes beneath such
21 outside wrapper, as hereinafter provided. Any stamp required by
22 this Act shall note whether the State tax under Section 2 of
23 this Act (35 ILCS 130/2) was paid or whether the pack of
24 cigarettes was not subject to such tax.

25 No stamp or imprint may be affixed to, or made upon, any

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

16 Only distributors licensed under this Act or out-of-state
17 manufacturers holding a permit under this Act may receive
18 unstamped packs of cigarettes. Prior to shipment to another
19 person, each licensed distributor or out-of-state manufacturer
20 holding a permit shall apply a stamp to each pack of cigarettes
21 imported, distributed, or sold whether or not such cigarettes
22 are subject to State tax under Section 2 of this Act (35 ILCS
23 130/2) or any other provision of State law, provided that a
24 distributor or out-of-state manufacturer may only apply a tax
25 stamp to a pack of cigarettes purchased or obtained directly
26 from a licensed distributor or an out-of-state manufacturing

1 holding a permit. Only a licensed distributor or an
2 out-of-state manufacturer holding a permit may ship or
3 otherwise cause to be delivered unstamped packs of cigarettes
4 in, into, or from this State, provided that a licensed
5 distributor or an out-of-state manufacturer holding a permit
6 may transport unstamped packs of cigarettes to a facility,
7 wherever located, owned by such distributor or manufacturer.
8 Any person that ships or otherwise causes to be delivered
9 unstamped packs of cigarettes into, within, or from this State
10 shall ensure that the invoice or equivalent documentation and
11 the bill of lading or freight bill for the shipment identifies
12 the true name and address of the cosignor or seller, the true
13 name and address of the consignee or purchaser, and the quantity
14 by brand style of the cigarettes so transported, provided that
15 this Section shall not be construed as to impose any
16 requirement or liability upon any common or contract carrier.

17 The Department, or any person authorized by the Department,
18 shall sell such stamps only to persons holding valid licenses
19 as distributors under this Act. On and after July 1, 2003,
20 payment for such stamps must be made by means of electronic
21 funds transfer. The Department may refuse to sell stamps to any
22 person who does not comply with the provisions of this Act.
23 Beginning on the effective date of this amendatory Act of the
24 92nd General Assembly and through June 30, 2002, persons
25 holding valid licenses as distributors may purchase cigarette
26 tax stamps up to an amount equal to 115% of the distributor's

1 average monthly cigarette tax stamp purchases over the 12
2 calendar months prior to the effective date of this amendatory
3 Act of the 92nd General Assembly.

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

1 On and after December 1, 1985 and until July 1, 2003, the
2 Department shall allow a distributor 30 days in which to make
3 final payment of the amount to be paid for such stamps, by
4 allowing the distributor to make payment for the stamps at the
5 time of purchasing them with a draft which shall be in such
6 form as the Department prescribes, and which shall be payable
7 within 30 days thereafter, and beginning on January 1, 2003 and
8 thereafter, the draft shall be payable by means of electronic
9 funds transfer: Provided that such distributor has filed with
10 the Department, and has received the Department's approval of,
11 a bond, which is in addition to the bond required under Section
12 4 of this Act, payable to the Department in an amount equal to
13 150% of such distributor's average monthly tax liability to the
14 Department under this Act during the preceding calendar year or
15 \$750,000, whichever is less, except that as to bonds filed on
16 or after January 1, 1987, such additional bond shall be in an
17 amount equal to 100% of such distributor's average monthly tax
18 liability under this Act during the preceding calendar year or
19 \$750,000, 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 30-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 Every prior continuous compliance taxpayer shall be exempt
5 from all requirements under this Section concerning the
6 furnishing of such bond, as defined in this Section, as a
7 condition precedent to his being authorized to engage in the
8 business licensed under this Act. This exemption shall continue
9 for each such taxpayer until such time as he may be determined
10 by the Department to be delinquent in the filing of any
11 returns, or is determined by the Department (either through the
12 Department's issuance of a final assessment which has become
13 final under the Act, or by the taxpayer's filing of a return
14 which admits tax to be due that is not paid) to be delinquent
15 or deficient in the paying of any tax under this Act, at which
16 time that taxpayer shall become subject to the bond
17 requirements of this Section and, as a condition of being
18 allowed to continue to engage in the business licensed under
19 this Act, shall be required to furnish bond to the Department
20 in such form as provided in this Section. Such taxpayer shall
21 furnish such bond for a period of 2 years, after which, if the
22 taxpayer has not been delinquent in the filing of any returns,
23 or delinquent or deficient in the paying of any tax under this
24 Act, the Department may reinstate such person as a prior
25 continuance compliance taxpayer. Any taxpayer who fails to pay
26 an admitted or established liability under this Act may also be

1 required to post bond or other acceptable security with the
2 Department guaranteeing the payment of such admitted or
3 established liability.

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

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

17 (1) Such taxpayer becomes a prior continuous compliance
18 taxpayer; or

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

1 determination within 45 days after receiving the final tax
2 return, within such period it shall so notify the taxpayer,
3 stating its reasons therefor.

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

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

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

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

26 (Source: P.A. 92-322, eff. 1-1-02; 92-536, eff. 6-6-02; 92-737,

1 eff. 7-25-02; 93-22, eff. 6-20-03.)

2 (35 ILCS 130/3-10)

3 Sec. 3-10. Cigarette enforcement.

4 (a) Prohibitions. It is unlawful for any person:

5 (1) to sell or distribute in this State; to acquire,
6 hold, own, possess, or transport, for sale or distribution
7 in this State; or to import, or cause to be imported into
8 this State for sale or distribution in this State:

9 (A) any cigarettes the package of which:

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

17 (ii) does not comply with:

18 (aa) all requirements imposed by or
19 pursuant to federal law regarding warnings and
20 other information on packages of cigarettes
21 manufactured, packaged, or imported for sale,
22 distribution, or use in the United States,
23 including but not limited to the precise
24 warning labels specified in the federal
25 Cigarette Labeling and Advertising Act, 15

1 U.S.C. 1333; and

2 (bb) all federal trademark and copyright
3 laws;

4 (B) any cigarettes imported into the United States
5 in violation of 26 U.S.C. 5754 or any other federal
6 law, or implementing federal regulations;

7 (C) any cigarettes that such person otherwise
8 knows or has reason to know the manufacturer did not
9 intend to be sold, distributed, or used in the United
10 States; or

11 (D) any cigarettes for which there has not been
12 submitted to the Secretary of the U.S. Department of
13 Health and Human Services the list or lists of the
14 ingredients added to tobacco in the manufacture of the
15 cigarettes required by the federal Cigarette Labeling
16 and Advertising Act, 15 U.S.C. 1335a;

17 (2) to alter the package of any cigarettes, prior to
18 sale or distribution to the ultimate consumer, so as to
19 remove, conceal, or obscure:

20 (A) any statement, label, stamp, sticker, or
21 notice described in subdivision (a)(1)(A)(i) of this
22 Section;

23 (B) any health warning that is not specified in, or
24 does not conform with the requirements of, the federal
25 Cigarette Labeling and Advertising Act, 15 U.S.C.
26 1333; ~~or~~

1 (3) to affix any stamp required pursuant to this Act to
2 the package of any cigarettes described in subdivision
3 (a)(1) of this Section or altered in violation of
4 subdivision (a)(2); ~~or~~

5 (4) to knowingly possess, or possess for sale,
6 contraband cigarettes.

7 (b) Documentation. On the first business day of each month,
8 each person licensed to affix the State tax stamp to cigarettes
9 shall file with the Department, for all cigarettes imported
10 into the United States to which the person has affixed the tax
11 stamp in the preceding month:

12 (1) a copy of:

13 (A) the permit issued pursuant to the Internal
14 Revenue Code, 26 U.S.C. 5713, to the person importing
15 the cigarettes into the United States allowing the
16 person to import the cigarettes; and

17 (B) the customs form containing, with respect to
18 the cigarettes, the internal revenue tax information
19 required by the U.S. Bureau of Alcohol, Tobacco and
20 Firearms;

21 (2) a statement, signed by the person under penalty of
22 perjury, which shall be treated as confidential by the
23 Department and exempt from disclosure under the Freedom of
24 Information Act, identifying the brand and brand styles of
25 all such cigarettes, the quantity of each brand style of
26 such cigarettes, the supplier of such cigarettes, and the

1 person or persons, if any, to whom such cigarettes have
2 been conveyed for resale; and a separate statement, signed
3 by the individual under penalty of perjury, which shall not
4 be treated as confidential or exempt from disclosure,
5 separately identifying the brands and brand styles of such
6 cigarettes; and

7 (3) a statement, signed by an officer of the
8 manufacturer or importer under penalty of perjury,
9 certifying that the manufacturer or importer has complied
10 with:

11 (A) the package health warning and ingredient
12 reporting requirements of the federal Cigarette
13 Labeling and Advertising Act, 15 U.S.C. 1333 and 1335a,
14 with respect to such cigarettes; and

15 (B) the provisions of Exhibit T of the Master
16 Settlement Agreement entered in the case of People of
17 the State of Illinois v. Philip Morris, et al. (Circuit
18 Court of Cook County, No. 96-L13146), including a
19 statement indicating whether the manufacturer is, or
20 is not, a participating tobacco manufacturer within
21 the meaning of Exhibit T.

22 (c) Administrative sanctions.

23 (1) Upon finding that a distributor has committed any
24 of the acts prohibited by subsection (a), knowing or having
25 reason to know that he or she has done so, or has failed to
26 comply with any requirement of subsection (b), the

1 Department may revoke or suspend the license or licenses of
2 any distributor pursuant to the procedures set forth in
3 Section 6 and impose on the distributor a civil penalty in
4 an amount not to exceed the greater of 500% of the retail
5 value of the cigarettes involved or \$5,000.

6 (2) Cigarettes that are acquired, held, owned,
7 possessed, transported in, imported into, or sold or
8 distributed in this State in violation of this Section
9 shall be deemed contraband under this Act and are subject
10 to seizure and forfeiture as provided in this Act, and all
11 such cigarettes seized and forfeited shall be destroyed.
12 Such cigarettes shall be deemed contraband whether the
13 violation of this Section is knowing or otherwise.

14 (d) Unfair trade practices. A violation of subsection (a)
15 or subsection (b) of this Section shall constitute an unlawful
16 practice as provided in the Consumer Fraud and Deceptive
17 Business Practices Act.

18 (e) Unfair cigarette sales. For purposes of the Trademark
19 Registration and Protection Act and the Counterfeit Trademark
20 Act, cigarettes imported or reimported into the United States
21 for sale or distribution under any trade name, trade dress, or
22 trademark that is the same as, or is confusingly similar to,
23 any trade name, trade dress, or trademark used for cigarettes
24 manufactured in the United States for sale or distribution in
25 the United States shall be presumed to have been purchased
26 outside of the ordinary channels of trade.

1 (f) General provisions.

2 (1) This Section shall be enforced by the Department;
3 provided that, at the request of the Director of Revenue or
4 the Director's duly authorized agent, the State police and
5 all local police authorities shall enforce the provisions
6 of this Section. The Attorney General has concurrent power
7 with the State's Attorney of any county to enforce this
8 Section.

9 (2) For the purpose of enforcing this Section, the
10 Director of Revenue and any agency to which the Director
11 has delegated enforcement responsibility pursuant to
12 subdivision (f)(1) may request information from any State
13 or local agency and may share information with and request
14 information from any federal agency and any agency of any
15 other state or any local agency of any other state.

16 (3) In addition to any other remedy provided by law,
17 including enforcement as provided in subdivision (a)(1),
18 any person may bring an action for appropriate injunctive
19 or other equitable relief for a violation of this Section;
20 actual damages, if any, sustained by reason of the
21 violation; and, as determined by the court, interest on the
22 damages from the date of the complaint, taxable costs, and
23 reasonable attorney's fees. If the trier of fact finds that
24 the violation is flagrant, it may increase recovery to an
25 amount not in excess of 3 times the actual damages
26 sustained by reason of the violation.

1 (g) Definitions. As used in this Section:

2 "Importer" means that term as defined in 26 U.S.C. 5702(1).

3 "Package" means that term as defined in 15 U.S.C. 1332(4).

4 (h) Applicability.

5 (1) This Section does not apply to:

6 (A) cigarettes allowed to be imported or brought
7 into the United States for personal use; and

8 (B) cigarettes sold or intended to be sold as
9 duty-free merchandise by a duty-free sales enterprise
10 in accordance with the provisions of 19 U.S.C. 1555(b)
11 and any implementing regulations; except that this
12 Section shall apply to any such cigarettes that are
13 brought back into the customs territory for resale
14 within the customs territory.

15 (2) The penalties provided in this Section are in
16 addition to any other penalties imposed under other
17 provision of law.

18 (Source: P.A. 91-810, eff. 6-13-00.)

19 (35 ILCS 130/3-15 new)

20 Sec. 3-15. Criminal and civil penalties.

21 (a) Civil penalties.

22 (1) Distributors and manufacturers. Except as
23 otherwise provided in this Section, a first violation of
24 any provision of this Act by a manufacturer or distributor
25 shall, in addition to any other penalty provided in this

1 Act, be punishable by a fine of \$5,000 for each separate
2 violation, which shall be recovered, with costs of suit, in
3 a civil action. Any subsequent violation of any provision
4 of this Act by a manufacturer or distributor shall be
5 punishable by a fine of \$10,000 for each separate
6 violation. In no case shall the fine imposed under this
7 paragraph exceed 10 times the retail value of the
8 cigarettes.

9 (2) Retailers. Except as otherwise provided in this
10 Section, a first violation of any provision of this Act by
11 a retailer shall, in addition to any other penalty provided
12 in this Act, be punishable by a fine of \$1,000 for each
13 separate violation, which shall be recovered, with costs of
14 suit, in a civil action. Any subsequent violation of any
15 provision of this Act by a retailer shall be punishable by
16 a fine of \$2,000 for each separate violation. In no case
17 shall the fine imposed under this paragraph exceed 10 times
18 the retail value of the cigarettes.

19 (3) Failure to pay tax. Any person that fails to pay
20 any tax imposed by this State at the time prescribed by law
21 or regulations shall, in addition to any other penalty
22 provided in this Act, be liable to a penalty of 3 times the
23 tax due but unpaid, to help defray the costs of detection
24 and investigation and any consequential damages. In no case
25 shall the fine imposed under this paragraph exceed 10 times
26 the retail value of the cigarettes.

1 (4) Civil forfeiture.

2 (A) All cigarettes which are held for sale or
3 distribution within this State in violation of the
4 requirements of this Act shall be forfeited to this
5 State. All cigarettes forfeited to this State under
6 this Act shall be destroyed. The Department may, prior
7 to any destruction of cigarettes, permit the true
8 holder of the trademark rights in the cigarette brand
9 to inspect such contraband cigarettes, in order to
10 assist the Department in any investigation regarding
11 such cigarettes.

12 (B) Any person that, with intent to defraud the
13 State:

14 (i) fails to keep or make any record, return,
15 report, or inventory required by this Act;

16 (ii) keeps or makes any false or fraudulent
17 record, return, report, or inventory required by
18 this Act;

19 (iii) refuses to pay any tax imposed by this
20 Act; or

21 (iv) attempts in any manner to evade or defeat
22 the requirements of this Act shall forfeit to the
23 State all fixtures, equipment, and other materials
24 with a substantial connection to such conduct.

25 (C) A distributor or retailer shall not be required
26 to forfeit fixtures, equipment, and all other

1 materials and personal property on the premises if such
2 distributor or retailer:

3 (i) acted in good faith;

4 (ii) was not involved in or aware of the
5 unlawful activity prohibited by this Act; and

6 (iii) did all that reasonably could be
7 expected under the circumstances to prevent
8 violations of this Act.

9 (5) Notwithstanding any other provision of law, the
10 Department may use proceeds from civil penalties imposed
11 under this Section to offset necessary and reasonable
12 expenses incurred in the detection and investigation of the
13 failure of any person to pay any cigarette tax imposed by
14 this State.

15 (b) Criminal penalties.

16 (1) Fraudulent offenses. Whoever intentionally fails
17 to comply with any of the requirements of this Act or
18 regulations prescribed hereunder shall, in addition to any
19 other penalty provided in this Act, for each such offense,
20 be guilty of a Class 3 felony.

21 (2) Knowing offenses. Whoever, knowingly violates any
22 of the requirements of this Act or regulations prescribed
23 hereunder shall, in addition to any other penalty provided
24 in this Act, for each such offense, be guilty of a Class 4
25 felony.

26 (3) Penalties for contraband. Notwithstanding any

1 other provision of law, the possession for sale of
2 contraband cigarettes by a manufacturer, distributor, or
3 retailer shall be punishable as follows:

4 (A) A person who commits a first knowing violation
5 shall be guilty of a Class 4 felony.

6 (B) A person who commits a subsequent knowing
7 violation shall be guilty of a Class 3 felony and shall
8 have his or her license, permit, or sub-certificate
9 revoked by the Department. In no case shall the fine
10 imposed under this paragraph exceed ten times the
11 retail value of the cigarettes.

12 (4) For purposes of this Section, the term contraband
13 cigarettes includes cigarettes that have false
14 manufacturing labels or packs of cigarettes bearing
15 counterfeit tax stamps. Any contraband cigarette seized by
16 this State shall be destroyed. The Department may, prior to
17 any destruction of cigarettes, permit the true holder of
18 the trademark rights in the cigarette brand to inspect such
19 contraband cigarettes, in order to assist the Department in
20 any investigation regarding such cigarettes.

21 (5) The penalties provided in paragraph (3) shall not
22 apply where a licensed distributor is in possession of
23 contraband cigarettes as a result of such cigarettes being
24 returned to the distributor by a retailer if such
25 distributor promptly notified appropriate law enforcement
26 authorities.

1 (6) Criminal forfeiture.

2 (A) Notwithstanding any other provision of law,
3 the possession for sale of contraband cigarettes by a
4 manufacturer, distributor, or retailer shall, after
5 notice and hearing, result in the forfeiture to this
6 State of the product and related machinery and
7 equipment used in the production of contraband
8 cigarettes, or to falsely mark cigarettes to reflect
9 the payment of excise taxes.

10 (B) The knowing sale or possession for sale of
11 contraband cigarettes shall, after notice and hearing,
12 result in the seizure of all related machinery and
13 equipment.

14 (C) All cigarettes forfeited to this State under
15 this Section shall be destroyed. The Department may,
16 prior to any destruction of cigarettes, permit the true
17 holder of the trademark rights in the cigarette brand
18 to inspect such contraband cigarettes, in order to
19 assist the Department in any investigation regarding
20 such cigarettes.

21 (35 ILCS 130/3-20 new)

22 Sec. 3-20. Limitation on retail sales. A retailer shall not
23 knowingly sell or distribute more than 10 cartons of cigarettes
24 to any person in a single transaction or in any series of
25 transactions within a twenty-four hour period; provided,

1 however, that a retailer that is licensed as a distributor may
2 make any sales permitted to be made by a distributor under this
3 Act when acting in that capacity.

4 (35 ILCS 130/4) (from Ch. 120, par. 453.4)

5 Sec. 4. Distributor's license. No person may engage in
6 business as a distributor of cigarettes in this State within
7 the meaning of the first 2 definitions of distributor in
8 Section 1 of this Act without first having obtained a license
9 therefor from the Department. Application for license shall be
10 made to the Department in form as furnished and prescribed by
11 the Department. Each applicant for a license under this Section
12 shall furnish to the Department on the form signed and verified
13 by the applicant under penalty of perjury the following
14 information:

15 (a) If the applicant is an individual, the name and
16 business address of the applicant;

17 (b) If the applicant is a firm, partnership, or
18 association, the name and business address of each of its
19 members and any related party;

20 (c) If the applicant is an individual, the identity of
21 any license holder in which the individual, directly or
22 indirectly, owns more than 15 percent of the ownership
23 interests;

24 (d) If the applicant is a corporation or limited
25 liability company, the name and business address of each of

1 its officers and the name and business address of any
2 person that owns, directly or indirectly, in the aggregate,
3 more than 15 percent of the ownership interests in the
4 corporation or limited liability company and the name and
5 business address of any license holder in which the
6 applicant owns more than 15 percent of the ownership
7 interests;

8 (e) The name under which such applicant regularly does
9 business;

10 (f) The physical address of the applicant's principal
11 place of business and any other place of business within
12 this State;

13 (g) In the case of a distributor who manufacturers or
14 imports cigarettes, the brand styles of cigarettes the
15 applicant manufactures or imports;

16 (h) The kind or nature of the business to be conducted;

17 (i) Sufficient information to demonstrate that the
18 applicant has complied or will comply with all of the
19 requirements of this Act, including the identity of any
20 related party;

21 (j) Whether the applicant has committed any act in the
22 previous 5 years that would render the applicant ineligible
23 for a license or whether the applicant has been convicted
24 of a crime related to contraband cigarettes, punishable by
25 imprisonment of one year or more; or

26 ~~(a) The name and address of the applicant;~~

1 ~~(b) The address of the location at which the applicant~~
2 ~~proposes to engage in business as a distributor of~~
3 ~~cigarettes in this State;~~

4 (k) ~~(e)~~ Such other additional information as the
5 Department may lawfully require by its rules and
6 regulations.

7 The annual license fee payable to the Department for each
8 distributor's license shall be \$250. The purpose of such annual
9 license fee is to defray the cost, to the Department, of
10 serializing cigarette tax stamps. Each applicant for license
11 shall pay such fee to the Department at the time of submitting
12 his application for license to the Department.

13 Every applicant who is required to procure a distributor's
14 license shall file with his application a joint and several
15 bond. Such bond shall be executed to the Department of Revenue,
16 with good and sufficient surety or sureties residing or
17 licensed to do business within the State of Illinois, in the
18 amount of \$2,500, conditioned upon the true and faithful
19 compliance by the licensee with all of the provisions of this
20 Act. Such bond, or a reissue thereof, or a substitute therefor,
21 shall be kept in effect during the entire period covered by the
22 license. A separate application for license shall be made, a
23 separate annual license fee paid, and a separate bond filed,
24 for each place of business at which a person who is required to
25 procure a distributor's license under this Section proposes to
26 engage in business as a distributor in Illinois under this Act.

1 The following are ineligible to receive a distributor's
2 license under this Act:

3 (1) a person who is not of good character and
4 reputation in the community in which he resides;

5 (2) a person who has been convicted of a felony
6 under any Federal or State law, if the Department,
7 after investigation and a hearing, if requested by the
8 applicant, determines that such person has not been
9 sufficiently rehabilitated to warrant the public
10 trust;

11 (3) a corporation, if any officer, manager or
12 director thereof, or any stockholder or stockholders
13 owning in the aggregate more than 5% of the stock of
14 such corporation, would not be eligible to receive a
15 license under this Act for any reason.

16 (4) a person, or any person who owns more than 15
17 percent of the ownership interests in a person or a
18 related party who:

19 (a) owes, at the time of application, \$500 or
20 more in delinquent cigarette taxes that have been
21 determined by law to be due and unpaid, unless the
22 license applicant has entered into an agreement
23 approved by the Department to pay the amount due;

24 (b) had a license under this Act revoked within
25 the past two years by the Department for willful
26 misconduct relating to stolen or contraband

1 cigarettes or has been convicted of a State or
2 federal crime, punishable by imprisonment of one
3 year or more, relating to stolen or contraband
4 cigarettes;

5 (c) is a distributor who manufactures
6 cigarettes who is neither (i) a participating
7 manufacturer as defined in subsection II(jj) of
8 the "Master Settlement Agreement" as defined in
9 Sections 10 of the Tobacco Products Manufacturers'
10 Escrow Act and the Tobacco Products Manufacturers'
11 Escrow Enforcement Act of 2003 (30 ILCS 168/10 and
12 30 ILCS 167/10); nor (ii) in full compliance with
13 Tobacco Products Manufacturers' Escrow Act and the
14 Tobacco Products Manufacturers' Escrow Enforcement
15 Act of 2003 (30 ILCS 168/ and 30 ILCS 167/);

16 (d) has been found to have willfully imported
17 or caused to be imported into the United States for
18 sale or distribution any cigarette in violation of
19 19 U.S.C. 1681a;

20 (e) has been found to have willfully imported
21 or caused to be imported into the United States for
22 sale or distribution or manufactured for sale or
23 distribution in the United States any cigarette
24 that does not fully comply with the Federal
25 Cigarette Labeling and Advertising Act (15 U.S.C.
26 1331, et. seq.); or

1 (f) has willfully made a material false
2 statement in the application or has willfully
3 failed to produce records required to be
4 maintained by this Act.

5 The Department, upon receipt of an application, license fee
6 and bond in proper form, from a person who is eligible to
7 receive a distributor's license under this Act, shall issue to
8 such applicant a revocable license in form as prescribed by the
9 Department, which license shall permit the applicant to which
10 it is issued to engage in business as a distributor at the
11 place shown in his application. A distributor that operates at
12 multiple locations within this State must possess a separate,
13 individual license for each such location. To assist in the
14 valid administrative needs of the Department, the Department
15 shall assign each licensee a unique numerical identifier. All
16 licenses issued by the Department under this Act shall be valid
17 for not to exceed one year after issuance unless sooner
18 revoked, canceled or suspended as provided in this Act. No
19 license issued under this Act is transferable or assignable.
20 Such license shall be conspicuously displayed in the place of
21 business conducted by the licensee in Illinois under such
22 license. No distributor licensee acquires any vested interest
23 or compensable property right in a license issued under this
24 Act.

25 A licensed distributor shall notify the Department of any
26 change in the information contained on the application form,

1 including any change in ownership and shall do so within 30
2 days after any such change.

3 Any person aggrieved by any decision of the Department
4 under this Section may, within 20 days after notice of the
5 decision, protest and request a hearing. Upon receiving a
6 request for a hearing, the Department shall give notice to the
7 person requesting the hearing of the time and place fixed for
8 the hearing and shall hold a hearing in conformity with the
9 provisions of this Act and then issue its final administrative
10 decision in the matter to that person. In the absence of a
11 protest and request for a hearing within 20 days, the
12 Department's decision shall become final without any further
13 determination being made or notice given.

14 (Source: P.A. 91-901, eff. 1-1-01; 92-322, eff. 1-1-02.)

15 (35 ILCS 130/4c new)

16 Sec. 4c. Retailer's sub-certificate of registration. No
17 person may engage in business as a retailer in this State
18 without having obtained both a certificate of registration
19 described in Section 2a of the Retailers' Occupation Tax Act
20 (35 ILCS 120/2a) and a sub-certificate of registration
21 described in this Section. To engage in the business of selling
22 cigarettes at retail, retailers must obtain and maintain a
23 sub-certificate of registration from the Department prior to
24 the date of issuance or renewal of a retailer certificate of
25 registration. Such retailer sub-certificates shall be issued

1 without charge in such form as the Department may prescribe and
2 shall not be transferable or assignable.

3 The expiration date of a retailer's sub-certificate of
4 registration shall be that of the certificate of registration
5 to which the sub-certificate relates, but shall not be valid
6 after the expiration of 5 years from the date of its issuance
7 or last renewal. The retailer's sub-certificate of
8 registration shall not renew automatically. Sub-certificates
9 of registration shall be renewed only upon timely application.

10 The Department shall issue sub-certificates of
11 registration to retailers pursuant to this Act and under such
12 terms and conditions as it may determine to further the
13 requirements of this Act for each separate place of business
14 for each retailer within this State. Retailers shall
15 prominently display the appropriate sub-certificate of
16 registration at each place of business in such a manner as to
17 ensure that it is visible to all persons entering the place of
18 business. All sub-certificates of registration shall bear the
19 same registration number as that appearing upon the certificate
20 of registration to which the sub-certificate relates.

21 Application for a retailer's sub-certificate of
22 registration or a renewal thereof shall be made to the
23 Department upon forms furnished and prescribed by the
24 Department. Each such application shall be signed and verified
25 under penalty of perjury and shall state:

26 (1) if the applicant is an individual, the name and

1 business address of the applicant;

2 (2) if the applicant is a firm, partnership, or
3 association, the name and business address of each of its
4 members and any related party;

5 (3) if the applicant is an individual, the identity of
6 any distributor, manufacturer, or retailer in which the
7 individual, directly or indirectly, owns more than 15
8 percent of the ownership interests;

9 (4) if the applicant is a corporation or limited
10 liability company, the name and business address of each of
11 its officers and the name and business address of any
12 person who owns, directly or indirectly, in the aggregate,
13 more than 15 percent of the ownership interests in the
14 corporation or limited liability company and the name and
15 business address of any distributor, manufacturer, or
16 retailer in which the applicant owns more than 15 percent
17 of the ownership interests;

18 (5) the name under which such applicant regularly does
19 business;

20 (6) the physical address of the applicant's principal
21 place of business and any other place of business within
22 this state;

23 (7) the kind or nature of the business to be conducted;

24 (8) sufficient information to demonstrate that the
25 applicant has complied or will comply with all of the
26 requirements of this Act, including the identity of any

1 related party; and

2 (9) whether the applicant has committed any act in the
3 previous 5 years that would render the applicant ineligible
4 for a sub-certificate of registration or whether the
5 applicant has been convicted of a crime related to
6 contraband cigarettes, punishable by imprisonment of one
7 year or more.

8 The Department shall not grant or renew a sub-certificate
9 of registration or allow such a sub-certificate to be
10 maintained if it determines the applicant or any person who
11 owns more than 15 percent of the ownership interests in the
12 applicant or a related party:

13 (1) owes, at the time of application, \$500 or more in
14 delinquent cigarette or retail taxes that have been
15 determined by law to be due and unpaid, unless the
16 applicant has entered into an agreement approved by the
17 Department to pay the amount due;

18 (2) had a sub-certificate of registration under this
19 Act revoked within the past two years by the Department for
20 willful misconduct relating to stolen or contraband
21 cigarettes or has been convicted of a State or Federal
22 crime, punishable by imprisonment of one year or more,
23 relating to stolen or contraband cigarettes;

24 (3) has been found to have willfully imported or caused
25 to be imported into the United States for sale or
26 distribution any cigarette in violation of 19 U.S.C. 1681a;

1 (4) has been found to have willfully imported or caused
2 to be imported into the United States for sale or
3 distribution or manufactured for sale or distribution in
4 the United States any cigarette that does not fully comply
5 with the Federal Cigarette Labeling and Advertising Act (15
6 U.S.C. 1331, et. seq.); or

7 (5) has willfully made a material false statement in
8 the application or has willfully failed to produce records
9 required to be maintained by this Act.

10 A retailer shall notify the Department of any change in the
11 information contained on the application form, including any
12 change in ownership and shall do so within 30 days of any such
13 change.

14 No retailer acquires any vested interest or compensable
15 property right in a sub-certificate of registration issued
16 under this Act.

17 (35 ILCS 130/4d new)

18 Sec. 4d. Transactions only with licensed distributors,
19 out-of-state manufacturers holding a permit, and retailers
20 holding a sub-certificate of registration. A distributor or
21 manufacturer may sell or distribute cigarettes to a person
22 located or doing business within this State only if such person
23 is a licensed distributor or retailer holding a sub-certificate
24 of registration. A retailer may only sell cigarettes obtained
25 from a licensed distributor or an out-of-state manufacturer

1 holding a permit.

2 (35 ILCS 130/4e new)

3 Sec. 4e. Proof of license, permit, or sub-certificate
4 required. A distributor, manufacturer, or retailer shall,
5 prior to the initial sale or exchange of cigarettes with any
6 person that is required to be licensed, hold a permit, or hold
7 a sub-certificate under this Act, require proof of a valid
8 license, permit, or sub-certificate for the relevant business
9 location issued under this Act.

10 (35 ILCS 130/4f new)

11 Sec. 4f. Maintenance of and publication of list of
12 licenses, permits, and sub-certificates issued. Within 30 days
13 after the effective date of this amendatory Act of the 95th
14 General Assembly, the Department shall create and maintain a
15 website setting forth the identity of all persons issued
16 licenses, permits, or sub-certificates under this Act and the
17 business locations of each licensee, permittee, or
18 sub-certificate holder, itemized by type of license, permit, or
19 certificate possessed, and shall update the website no less
20 frequently than once per month. The Department shall, at a
21 minimum, include on the website the legal name of the licensee,
22 permittee, or sub-certificate holder, the numerical identifier
23 issued to the licensee, permittee, or sub-certificate holder,
24 and any name under which such licensee, permittee, or

1 sub-certificate holder regularly does business.

2 (35 ILCS 130/4g new)

3 Sec. 4g. Maintenance of and publication of list of
4 licensees, permittees, and sub-certificate holders whose
5 licenses, permits, or sub-certificates have been suspended,
6 cancelled, or revoked. Within 30 days after the effective date
7 of this amendatory Act of the 95th General Assembly, the
8 Department shall create and maintain a website setting forth
9 the identity of all persons whose licenses, permits, or
10 sub-certificates have been suspended, cancelled, or revoked
11 under this Act within the past 3 years, itemized by type of
12 license, permit, or sub-certificate, and shall update the
13 website within 30 days after the date the Department suspends,
14 cancels, or revokes any person's license, permit, or
15 sub-certificate. The Department shall, at a minimum, include on
16 the website the legal name, the business locations, the unique
17 numerical identifier issued prior to the suspension,
18 cancellation, or revocation of the, and any name under which
19 such licensee, permittee, or sub-certificate holder regularly
20 does business.

21 (35 ILCS 130/5) (from Ch. 120, par. 453.5)

22 Sec. 5. Printing tax stamps. The Department shall adopt the
23 design or designs of the tax stamps or alternative tax indicia
24 and shall procure the printing of such stamps or alternative

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

5 Each roll or sheet of tax stamps shall have a separate and
6 unique serial number that shall be clearly visible at the point
7 of sale. The Department shall keep records of which licensed
8 distributor or out-of-state manufacturer holding a permit
9 purchases each roll or sheet of stamps identified by serial
10 number.

11 Each licensed distributor or out-of-state manufacturer
12 holding a permit authorized by the Department to make meter
13 impressions shall be assigned a unique meter impression number,
14 which number shall not be used by any other distributor or
15 manufacturer and shall be visible and easily identifiable on
16 the impression at the point of sale on each pack of cigarettes.
17 The Department shall keep records detailing the meter
18 impression number assigned to each licensed distributor or
19 out-of-state manufacturer holding a permit.

20 (Source: P.A. 92-322, eff. 1-1-02.)

21 (35 ILCS 130/6a new)

22 Sec. 6a. Revocation, cancellation, or suspension of
23 retailer's sub-certificate of registration. The Department
24 may, after notice and hearing as provided for by this Act,
25 revoke, cancel or suspend a retailers' sub-certificate of

1 registration for the violation of any provision of this Act, or
2 for noncompliance with any provision herein contained, or for
3 any noncompliance with any lawful rule or regulation
4 promulgated by the Department, or because the sub-certificate
5 holder is determined to be ineligible for a retailer's
6 sub-certificate of registration for any one or more of the
7 reasons provided for in Section 4c of this Act (35 ILCS
8 130/4c). However, no such sub-certificate shall be revoked,
9 cancelled or suspended, except after a hearing by the
10 Department with notice to the retailer, as aforesaid, and
11 affording such retailer a reasonable opportunity to appear and
12 defend, and any retailer aggrieved by any decision of the
13 Department with respect thereto may have the determination of
14 the Department judicially reviewed, as herein provided.

15 A retailer's sub-certificate of registration is revoked,
16 cancelled, or suspended if the retail certificate of
17 registration to which it relates is revoked, cancelled, or
18 suspended. However, no such sub-certificate shall be revoked,
19 cancelled, or suspended, except after a hearing by the
20 Department with notice to the retailer, as aforesaid, and
21 affording such retailer a reasonable opportunity to appear and
22 defend, and any retailer aggrieved by any decision of the
23 Department with respect thereto may have the determination of
24 the Department judicially reviewed, as herein provided.

25 Any retailer aggrieved by any decision of the Department
26 under this Section may, within 20 days after notice of the

1 decision, protest and request a hearing. Upon receiving a
2 request for a hearing, the Department shall give notice in
3 writing to the retailer requesting the hearing that contains a
4 statement of the charges preferred against the retailer and
5 that states the time and place fixed for the hearing. The
6 Department shall hold the hearing in conformity with the
7 provisions of this Act and then issue its final administrative
8 decision in the matter to the retailer. In the absence of a
9 protest and request for a hearing within 20 days, the
10 Department's decision shall become final without any further
11 determination being made or notice given.

12 No sub-certificate so revoked, as aforesaid, shall be
13 reissued to any such retailer within a period of 6 months after
14 the date of the final determination of such revocation. No such
15 sub-certificate shall be reissued at all so long as the person
16 who would receive the sub-certificate is ineligible to receive
17 a retailer's sub-certificate of registration under this Act for
18 any one or more of the reasons provided for in Section 4c of
19 this Act (35 ILCS 130/4c).

20 The Department, upon complaint filed in the circuit court,
21 may by injunction restrain any person who fails, or refuses, to
22 comply with any of the provisions of this Act from acting as a
23 retailer of cigarettes in this State.

24 (35 ILCS 130/11) (from Ch. 120, par. 453.11)

25 Sec. 11. Every distributor of cigarettes, who is required

1 to procure a license under this Act, shall keep within
2 Illinois, at his licensed address, complete and accurate
3 records of cigarettes held, purchased, manufactured, brought
4 in or caused to be brought in from without the State, and sold,
5 or otherwise disposed of, and shall preserve and keep within
6 Illinois at his licensed address all invoices, bills of lading,
7 sales records, copies of bills of sale, inventory at the close
8 of each period for which a return is required of all cigarettes
9 on hand and of all cigarette revenue stamps, both affixed and
10 unaffixed, and other pertinent papers and documents relating to
11 the manufacture, purchase, sale or disposition of cigarettes.
12 All books and records and other papers and documents that are
13 required by this Act to be kept shall be itemized by quantity
14 and brand style, itemized for each of the distributor's
15 facilities, kept in the English language, and shall, at all
16 times during the usual business hours of the day, be subject to
17 inspection by the Department or its duly authorized agents and
18 employees. The Department may adopt rules that establish
19 requirements, including record forms and formats, for records
20 required to be kept and maintained by taxpayers. For purposes
21 of this Section, "records" means all data maintained by the
22 taxpayer, including data on paper, microfilm, microfiche or any
23 type of machine-sensible data compilation. Those books,
24 records, papers and documents shall be preserved for a period
25 of at least 3 years after the date of the documents, or the
26 date of the entries appearing in the records, unless the

1 Department, in writing, authorizes their destruction or
2 disposal at an earlier date. At all times during the usual
3 business hours of the day any duly authorized agent or employee
4 of the Department may enter any place of business of the
5 distributor, without a search warrant, and inspect the premises
6 and the stock or packages of cigarettes and the vending devices
7 therein contained, to determine whether any of the provisions
8 of this Act are being violated. If such agent or employee is
9 denied free access or is hindered or interfered with in making
10 such examination as herein provided, the license of the
11 distributor at such premises shall be subject to revocation by
12 the Department.

13 (Source: P.A. 88-480.)

14 (35 ILCS 130/11a new)

15 Sec. 11a. Retailer records. Every cigarette retailer who is
16 required to procure a sub-certificate of registration under
17 this Act shall keep within Illinois, at the corresponding place
18 of business, copies of invoices or equivalent documentation,
19 itemized by quantity and brand style, for each transaction
20 involving the sale, purchase, transfer, consignment, or
21 receipt of packs of cigarettes.

22 Records required under this Section shall be preserved on
23 the premises described in the relevant sub-certificate of
24 registration in such a manner as to ensure permanency and
25 accessibility for inspection. All books and records and other

1 papers and documents required by this Act to be kept shall be
2 kept in the English language, and shall, at all times during
3 the usual business hours of the day, be subject to inspection
4 by the Department or its duly authorized agents and employees.
5 Such books and records shall be preserved for a period of at
6 least 3 years after the date of the documents, or the date of
7 the entries appearing in the records.

8 At all times during the usual business hours of the day any
9 duly authorized agent or employee of the Department may enter
10 any place of business of the retailer, without a search
11 warrant, and inspect the premises and the stock or packages of
12 cigarettes and the vending devices therein contained, to
13 determine whether any of the provisions of this Act are being
14 violated. If such agent or employee is denied free access or is
15 hindered or interfered with in making such examination as
16 herein provided, the sub-certificate of the retailer at such
17 premises shall be subject to revocation by the Department.

18 The Department is authorized to disclose to the Attorney
19 General any information received under this Section and
20 requested by the Attorney General. The Department and the
21 Attorney General shall share with each other the information
22 received under this Section and may share the information with
23 other federal, State, or local agencies for purposes of
24 enforcement of this Act or the laws of the Federal government
25 or of other States.

1 (35 ILCS 130/20) (from Ch. 120, par. 453.20)

2 Sec. 20. Whenever any peace officer of the State or any
3 duly authorized officer or employee of the Department shall
4 have reason to believe that any violation of this Act has
5 occurred and that the person so violating the Act has in his,
6 her or its possession any original package of cigarettes, not
7 tax stamped or tax imprinted underneath the sealed transparent
8 wrapper of such original package as required by this Act, or
9 any vending device containing such original packages to which
10 stamps have not been affixed, or on which an authorized
11 substitute for stamps has not been imprinted underneath the
12 sealed transparent wrapper of such original packages, as
13 required by this Act, he may file or cause to be filed his
14 complaint in writing, verified by affidavit, with any court
15 within whose jurisdiction the premises to be searched are
16 situated, stating the facts upon which such belief is founded,
17 the premises to be searched, and the property to be seized, and
18 procure a search warrant and execute the same. Upon the
19 execution of such search warrant, the peace officer, or officer
20 or employee of the Department, executing such search warrant
21 shall make due return thereof to the court issuing the same,
22 together with an inventory of the property taken thereunder.
23 The court shall thereupon issue process against the owner of
24 such property if he is known; otherwise, such process shall be
25 issued against the person in whose possession the property so
26 taken is found, if such person is known. In case of inability

1 to serve such process upon the owner or the person in
2 possession of the property at the time of its seizure, as
3 hereinbefore provided, notice of the proceedings before the
4 court shall be given as required by the statutes of the State
5 governing cases of Attachment. Upon the return of the process
6 duly served or upon the posting or publishing of notice made,
7 as hereinabove provided, the court or jury, if a jury shall be
8 demanded, shall proceed to determine whether or not such
9 property so seized was held or possessed in violation of this
10 Act, or whether, if a vending device has been so seized, it
11 contained at the time of its seizure original packages not tax
12 stamped or tax imprinted underneath the sealed transparent
13 wrapper of such original packages as required by this Act. In
14 case of a finding that the original packages seized were not
15 tax stamped or tax imprinted underneath the sealed transparent
16 wrapper of such original packages in accordance with the
17 provisions of this Act, or that any vending device so seized
18 contained at the time of its seizure original packages not tax
19 stamped or tax imprinted underneath the sealed transparent
20 wrapper of such original packages in accordance with the
21 provisions of this Act, judgment shall be entered confiscating
22 and forfeiting the property to the State and ordering its
23 delivery to the Department, and in addition thereto, the court
24 shall have power to tax and assess the costs of the
25 proceedings.

26 When any original packages or any cigarette vending device

1 shall have been declared forfeited to the State by any court,
2 as hereinbefore provided, and when such confiscated and
3 forfeited property shall have been delivered to the Department,
4 as provided in this Act, the said Department shall destroy ~~sell~~
5 such property. The Department may, prior to any destruction of
6 cigarettes, permit the true holder of the trademark rights in
7 the cigarette brand to inspect such contraband cigarettes, in
8 order to assist the Department in any investigation regarding
9 such cigarettes. ~~for the best price obtainable and shall~~
10 ~~forthwith pay over the proceeds of such sale to the State~~
11 ~~Treasurer; provided, however, that if the value of such~~
12 ~~property to be sold at any one time shall be \$500 or more, such~~
13 ~~property shall be sold only to the highest and best bidder on~~
14 ~~such terms and conditions and on open competitive bidding after~~
15 ~~public advertisement, in such manner and for such terms as the~~
16 ~~Department, by rule, may prescribe.~~

17 ~~Upon making such a sale of original packages of cigarettes~~
18 ~~which were not tax stamped or tax imprinted underneath the~~
19 ~~sealed transparent wrapper of such original packages as~~
20 ~~required by this Act, the Department shall affix a distinctive~~
21 ~~stamp to each of the original packages so sold indicating that~~
22 ~~the same are sold pursuant to the provisions of this Section.~~

23 (Source: Laws 1965, p. 3707.)

24 (35 ILCS 130/21) (from Ch. 120, par. 453.21)

25 Sec. 21. Destruction or use of forfeited property.

1 (a) When any original packages of cigarettes or any
2 cigarette vending device shall have been declared forfeited to
3 the State by the Department, as provided in Section 18a of this
4 Act, and when all proceedings for the judicial review of the
5 Department's decision have terminated, the Department shall,
6 to the extent that its decision is sustained on review,
7 destroy, or maintain and use such property in an undercover
8 capacity, ~~or sell such property for the best price obtainable~~
9 ~~and shall forthwith pay over the proceeds of such sale to the~~
10 ~~State Treasurer. If the value of such property to be sold at~~
11 ~~any one time is \$500 or more, however, such property shall be~~
12 ~~sold only to the highest and best bidder on such terms and~~
13 ~~conditions and on open competitive bidding after public~~
14 ~~advertisement, in such manner and for such terms as the~~
15 ~~Department, by rule, may prescribe.~~

16 (b) The Department may, prior to any destruction of
17 cigarettes, permit the true holder of the trademark rights in
18 the cigarette brand to inspect such contraband cigarettes in
19 order to assist the Department in any investigation regarding
20 such cigarettes. ~~If no complaint for review, as provided in~~
21 ~~Section 8 of this Act, has been filed within the time required~~
22 ~~by the Administrative Review Law, and if no stay order has been~~
23 ~~entered thereunder, the Department shall proceed to sell the~~
24 ~~property for the best price obtainable and shall forthwith pay~~
25 ~~over the proceeds of such sale to the State Treasurer. If the~~
26 ~~value of such property to be sold at any one time is \$500 or~~

1 ~~more, however, such property shall be sold only to the highest~~
2 ~~and best bidder on such terms and conditions and on open~~
3 ~~competitive bidding after public advertisement, in such manner~~
4 ~~and for such terms as the Department, by rule, may prescribe.~~

5 ~~(c) Upon making a sale of unstamped original packages of~~
6 ~~cigarettes as provided in this Section, the Department shall~~
7 ~~affix a distinctive stamp to each of the original packages so~~
8 ~~sold indicating that the same are sold under this Section.~~

9 ~~(d) Notwithstanding the foregoing, any cigarettes seized~~
10 ~~under this Act or under the Cigarette Use Tax Act may, at the~~
11 ~~discretion of the Director of Revenue, be distributed to any~~
12 ~~eleemosynary institution within the State of Illinois.~~

13 (Source: P.A. 94-776, eff. 5-19-06.)

14 (35 ILCS 130/9c rep.)

15 (35 ILCS 130/28 rep.)

16 Section 10. The Cigarette Tax Act is amended by repealing
17 Sections 9c and 28.

18 Section 15. The Prevention of Cigarette Sales to Minors Act
19 is amended by changing Sections 5 and 10 and by adding Sections
20 2, 6, 7, 8, 9, 20, 25, and 30 as follows:

21 (720 ILCS 678/2 new)

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

23 "Clear and conspicuous statement" means the statement is of

1 sufficient type size to be clearly readable by the recipient of
2 the communication.

3 "Consumer" means an individual who acquires or seeks to
4 acquire cigarettes for personal use.

5 "Delivery sale" means any sale of cigarettes to a consumer
6 if:

7 (a) the consumer submits the order for such sale by
8 means of a telephone or other method of voice transmission,
9 the mails, or the Internet or other online service, or the
10 seller is otherwise not in the physical presence of the
11 buyer when the request for purchase or order is made; or

12 (b) the cigarettes are delivered by use of a common
13 carrier, private delivery service, or the mails, or the
14 seller is not in the physical presence of the buyer when
15 the buyer obtains possession of the cigarettes.

16 "Delivery service" means any person (other than a person
17 that makes a delivery sale) who delivers to the consumer the
18 cigarettes sold in a delivery sale.

19 "Department" means the Department of Revenue.

20 "Government-issued identification" means a State driver's
21 license, State identification card, passport, a military
22 identification or an official naturalization or immigration
23 document, such as an alien registration recipient card
24 (commonly known as a "green card") or an immigrant visa.

25 "Legal minimum age" means the minimum age at which an
26 individual may legally purchase cigarettes within this State,

1 as determined by either State or local government.

2 "Mails" or "mailing" mean the shipment of cigarettes
3 through the United States Postal Service.

4 "Out-of-state sale" means a sale of cigarettes to a
5 consumer located outside of this State where the consumer
6 submits the order for such sale by means of a telephonic or
7 other method of voice transmission, the mails or any other
8 delivery service, facsimile transmission, or the Internet or
9 other online service and where the cigarettes are delivered by
10 use of the mails or other delivery service.

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

14 "Shipping package" means a container in which packs or
15 cartons of cigarettes are shipped in connection with a delivery
16 sale.

17 "Shipping documents" means bills of lading, air bills, or
18 any other documents used to evidence the undertaking by a
19 delivery service to deliver letters, packages, or other
20 containers.

21 "Within this State" means within the exterior limits of the
22 State of Illinois and includes all territory within these
23 limits owned by or ceded to the United States of America.

24 (720 ILCS 678/5)

25 Sec. 5. Unlawful shipment or transportation of cigarettes.

1 (a) It is unlawful for any person engaged in the business
2 of selling cigarettes to ship or cause to be shipped any
3 cigarettes unless the person shipping the cigarettes:

4 (1) is licensed as a distributor under either the
5 Cigarette Tax Act, or the Cigarette Use Tax Act; or
6 delivers the cigarettes to a distributor licensed under
7 either the Cigarette Tax Act or the Cigarette Use Tax Act;
8 or

9 (2) ships them to an export warehouse proprietor
10 pursuant to Chapter 52 of the Internal Revenue Code, or an
11 operator of a customs bonded warehouse pursuant to Section
12 1311 or 1555 of Title 19 of the United States Code.

13 For purposes of this subsection (a), a person is a licensed
14 distributor if the person's name appears on a list of licensed
15 distributors published by the Illinois Department of Revenue.
16 The term cigarette has the same meaning as defined in Section 1
17 of the Cigarette Tax Act and Section 1 of the Cigarette Use Tax
18 Act. Nothing in this Act prohibits a person licensed as a
19 distributor under the Cigarette Tax Act or the Cigarette Use
20 Tax Act from shipping or causing to be shipped any cigarettes
21 to a registered retailer under the Retailers' Occupation Tax
22 Act and the Cigarette Tax Act provided the cigarette tax or
23 cigarette use tax has been paid.

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

1 person described in paragraph (a)(1). Common or contract
2 carriers may make deliveries of cigarettes to licensed
3 distributors described in paragraph (a)(1) of this Section.
4 Nothing in this subsection (b) shall be construed to prohibit a
5 person other than a common or contract carrier from
6 transporting not more than 1,000 cigarettes at any one time to
7 any person in this State.

8 (c) A common or contract carrier may not complete the
9 delivery of any cigarettes to persons other than those
10 described in paragraph (a)(1) of this Section without first
11 obtaining from the purchaser an official written
12 identification from any state or federal agency that displays
13 the person's date of birth or a birth certificate that includes
14 a reliable confirmation that the purchaser is at least 18 years
15 of age; that the cigarettes purchased are not intended for
16 consumption by an individual who is younger than 18 years of
17 age; and a written statement signed by the purchaser that
18 certifies the purchaser's address and that the purchaser is at
19 least 18 years of age. The statement shall also confirm: (1)
20 that the purchaser understands that signing another person's
21 name to the certification is illegal; (2) that the sale of
22 cigarettes to individuals under 18 years of age is illegal; and
23 (3) that the purchase of cigarettes by individuals under 18
24 years of age is illegal under the laws of Illinois.

25 (d) When a person engaged in the business of selling
26 cigarettes ships or causes to be shipped any cigarettes to any

1 person in this State, other than in the cigarette
2 manufacturer's or tobacco products manufacturer's original
3 container or wrapping, the container or wrapping must be
4 plainly and visibly marked with the word "cigarettes".

5 (e) When a peace officer of this State or any duly
6 authorized officer or employee of the Illinois Department of
7 Public Health or Department of Revenue discovers any cigarettes
8 which have been or which are being shipped or transported in
9 violation of this Section, he or she shall seize and take
10 possession of the cigarettes, and the cigarettes shall be
11 subject to a forfeiture action pursuant to the procedures
12 provided under the Cigarette Tax Act or Cigarette Use Tax Act.

13 (Source: P.A. 93-960, eff. 8-20-04.)

14 (720 ILCS 678/6 new)

15 Sec. 6. Prevention of delivery sales to minors.

16 (a) No person shall make a delivery sale of cigarettes to
17 any individual who is under the legal minimum age.

18 (b) Each person accepting a purchase order for a delivery
19 sale shall comply with the provisions of this Act and all other
20 laws of this State generally applicable to sales of cigarettes
21 that occur entirely within this State, including, but not
22 limited to, those laws imposing: (i) excise taxes; (ii) sales
23 taxes; (iii) license and revenue-stamping requirements; and
24 (iv) escrow payment obligations.

1 (720 ILCS 678/7 new)

2 Sec. 7. Age verification and shipping requirements to
3 prevent delivery sales to minors.

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

7 (1) prior to the first delivery sale to the prospective
8 consumer, obtains from the prospective consumer a written
9 certification which includes a statement signed by the
10 prospective consumer that certifies:

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

12 and

13 (B) that the prospective consumer is at least the
14 legal minimum age;

15 (2) informs, in writing, such prospective consumer
16 that:

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

19 (B) sales of cigarettes to individuals under the
20 legal minimum age are illegal;

21 (C) the purchase of cigarettes by individuals
22 under the legal minimum age is illegal; and

23 (D) the name and identity of the prospective
24 consumer may be reported to the state of the consumer's
25 current address under the Act of October 19, 1949 (15
26 U.S.C. § 375, et seq.), commonly known as the Jenkins

1 Act;

2 (3) makes a good faith effort to verify the date of
3 birth of the prospective customer provided pursuant to this
4 Section by:

5 (A) comparing the date of birth against a
6 commercially available database or

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

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

12 (5) receives payment for the delivery sale from the
13 prospective consumer by a credit or debit card that has
14 been issued in such consumer's name, or by a check or other
15 written instrument in such consumer's name; and

16 (6) ensures that the shipping package is delivered to
17 the same address as is shown on the government-issued
18 identification or contained in the commercially available
19 database.

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

21 (1) a statement that cigarette sales to consumers below
22 the legal minimum age are illegal;

23 (2) a statement that sales of cigarettes are restricted
24 to those consumers who provide verifiable proof of age in
25 accordance with subsection (a);

26 (3) a statement that cigarette sales are subject to tax

1 under Section 2 of the Cigarette Tax Act (35 ILCS 130/2)
2 and an explanation of how such tax has been, or is to be,
3 paid with respect to such delivery sale.

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

5 (1) the statement is clear and conspicuous;

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

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

9 (4) the statement is printed with a degree of color
10 contrast between the background and the printed statement
11 that is no less than the color contrast between the
12 background and the largest text used in the communication;
13 and

14 (5) for any printed material delivered by electronic
15 means, the statement appears at both the top and the bottom
16 of the electronic mail message or both the top and the
17 bottom of the Internet website homepage.

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

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

25 (2) use a method of mailing, shipping, or delivery that
26 requires a signature before the shipping package is

1 released to the consumer; and

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

4 (720 ILCS 678/8 new)

5 Sec. 8. Registration and reporting requirements to prevent
6 delivery sales to minors.

7 (a) Each person who makes a delivery sale of cigarettes to
8 a consumer located within this State shall file with the
9 Department for each individual sale:

10 (1) a statement setting forth such person's name, trade
11 name, and the address of such person's principal place of
12 business and any other place of business; and

13 (2) not later than the tenth day of each calendar
14 month, a memorandum or copy of the invoice for each and
15 every such delivery sale made during the previous calendar
16 month, which includes the following information:

17 (A) the name and address of the consumer to whom
18 such delivery sale was made;

19 (B) the brand style or brand styles of the
20 cigarettes that were sold in such delivery sale;

21 (C) the quantity of cigarettes that were sold in
22 such delivery sale; and

23 (D) an indication of whether or not the cigarettes
24 sold in the delivery sale bore a tax stamp evidencing
25 payment of the tax under Section 2 of the Cigarette Tax

1 Act (35 ILCS 130/2).

2 (b) Each person engaged in business within this State who
3 makes an out-of-state sale shall, for each individual sale,
4 submit to the appropriate tax official of the state in which
5 the consumer is located the information required in subsection
6 (a).

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

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

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

22 (720 ILCS 678/9 new)

23 Sec. 9. Statements for delivery sales.

24 (a) Each person who makes a delivery sale shall collect and
25 remit to the Department all excise taxes imposed by this State

1 with respect to such delivery sale and maintain evidence of
2 such payment unless the person is located outside the State and
3 includes a statement on the outside of the shipping package
4 stating: "Illinois law requires the payment of state taxes on
5 this shipment of cigarettes. You are legally responsible for
6 all applicable unpaid state taxes on these cigarettes."

7 (b) A statement meets the requirements of subsection (a) if
8 the statement is:

9 (1) clear and conspicuous;

10 (2) contained in a printed box set apart from the
11 shipping label and other markings contained on the shipping
12 package;

13 (3) printed in bold, capital letters;

14 (4) printed with a degree of color contrast between the
15 background and the printed statement that is no less than
16 the color contrast between the background and the largest
17 text used on the shipping label; and

18 (5) located on the same side of the shipping package as
19 the shipping label.

20 (720 ILCS 678/10)

21 Sec. 10. Violation.

22 (a) A person who violates subsection (a), (b), or (c) of
23 Section 5 or Section, 6, 7, 8, or 9 is guilty of a Class A
24 misdemeanor. A second or subsequent violation of subsection
25 (a), (b), or (c) of Section 5 or Section, 6, 7, 8, or 9 is a

1 Class 4 felony.

2 (b) The Department of Revenue shall impose a civil penalty
3 not to exceed \$5,000 on any person who violates subsection (a),
4 (b), or (c) of Section 5 or Sections 6, 7, 8, or 9. The
5 Department of Revenue shall impose a civil penalty not to
6 exceed \$5,000 on any person engaged in the business of selling
7 cigarettes who ships or causes to be shipped any such
8 cigarettes to any person in this State in violation of
9 subsection (d) of Section 5.

10 (c) All cigarettes sold or attempted to be sold in a
11 delivery sale that does not meet the requirements of this Act
12 shall be forfeited to the State. All cigarettes forfeited to
13 this State under this Act shall be destroyed. The Department
14 may, prior to any destruction of cigarettes, permit the true
15 holder of the trademark rights in the cigarette brand to
16 inspect such contraband cigarettes, in order to assist the
17 Department in any investigation regarding such cigarettes.

18 (d) ~~(e)~~ Any person aggrieved by any decision of the
19 Department of Revenue may, within 60 days after notice of that
20 decision, protest in writing and request a hearing. The
21 Department of Revenue shall give notice to the person of the
22 time and place for the hearing and shall hold a hearing before
23 it issues a final administrative decision. Absent a written
24 protest within 60 days, the Department's decision shall become
25 final without any further determination made or notice given.

26 (Source: P.A. 93-960, eff. 8-20-04.)

1 (720 ILCS 678/20 new)

2 Sec. 20. Tip line.

3 (a) Not later than 120 days after the effective date of
4 this amendatory Act of the 95th General Assembly, the
5 Department shall establish, publicize, and maintain a
6 toll-free telephone number to receive information related to
7 violations of this Act.

8 (b) The Attorney General may pay a reward of up to \$5,000
9 to any person who furnishes information leading to the
10 Department's collection of excise taxes imposed upon delivery
11 sales which otherwise would not have been collected but for the
12 information provided by the person.

13 (720 ILCS 678/25 new)

14 Sec. 25. Construction. The requirements imposed by this Act
15 shall not apply where such application would be contrary to the
16 Constitution and laws of the United States.

17 (720 ILCS 678/30 new)

18 Sec. 30. Severability. If any provision of this Act is for
19 any reason held to be unconstitutional or invalid, such holding
20 shall not affect the constitutionality or validity of the
21 remaining provisions of this Act, and to this end the
22 provisions of this Act are expressly declared to be severable.

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