



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1181

Introduced 2/8/2007, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

See Index

Amends the Cigarette Tax Act. Requires tax stamps on cigarettes to indicate whether tax on those cigarettes was paid. Sets forth requirements for the handling of unstamped cigarettes. Sets forth fines and penalties under the Act. Limits the number of cartons of cigarettes that a retailer may sell in a single transaction. Sets forth requirements concerning applications for licensure under the Act. Sets forth requirements on distributors with respect to the Department of Revenue. Requires sub-certificates of registration for retailers and sets forth requirements and procedures for granting, revoking, cancelling, or suspending a sub-certificate. Requires the Department to maintain a list of all suspended, cancelled, and revoked licenses, permits, or sub-certificates under the Act. Requires the Department to assign unique stamp and meter impression numbers to distributors and out-of-state manufacturers. Requires retailers to maintain certain records. Sets forth procedures for the forfeiture and destruction of contraband cigarettes. Repeals Sections concerning transporters and the cessation of business by distributors. Amends the Prevention of Cigarette Sales to Minors Act. Sets forth various requirements with respect to shipping, registration, and reporting to prevent delivery sales to minors. Requires certain standards for delivery sales. Requires the Department to establish a tip line for reporting violations of the Act. Makes other changes. Effective immediately.

LRB095 10858 BDD 31133 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning Illinois cigarette sales.

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

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.

13 "Cigarette", means any ~~when used in this Act, shall be~~
14 ~~construed to mean:~~ Any roll for smoking made wholly or in part
15 of tobacco irrespective of size or shape and whether or not
16 such tobacco is flavored, adulterated or mixed with any other
17 ingredient, and the wrapper or cover of which is made of paper
18 or any other substance or material except tobacco.

19 "Contraband cigarettes" means:

20 (a) cigarettes that do not bear a required tax stamp
21 under this Act;

22 (b) cigarettes for which any required federal taxes
23 have not been paid;

- 1 (c) cigarettes that bear a counterfeit tax stamp;
2 (d) cigarettes that are manufactured, fabricated,
3 assembled, processed, packaged, or labeled by any person
4 other than (i) the owner of the trademark rights in the
5 cigarette brand or (ii) a person that is directly or
6 indirectly authorized by such owner; or
7 (e) cigarettes imported into the United States, or
8 otherwise distributed, in violation of the federal
9 Imported Cigarette Compliance Act of 2000 (Title IV of
10 Public Law 106-476).

11 "Person" means any natural individual, firm, partnership,
12 association, joint stock company, joint adventure, public or
13 private corporation, however formed, limited liability
14 company, or a receiver, executor, administrator, trustee,
15 guardian or other representative appointed by order of any
16 court.

17 "Prior Continuous Compliance Taxpayer" means any person
18 who is licensed under this Act and who, having been a licensee
19 for a continuous period of 5 years, is determined by the
20 Department not to have been either delinquent or deficient in
21 the payment of tax liability during that period or otherwise in
22 violation of this Act. Also, any taxpayer who has, as verified
23 by the Department, continuously complied with the condition of
24 his bond or other security under provisions of this Act for a
25 period of 5 consecutive years shall be considered to be a
26 "Prior continuous compliance taxpayer". In calculating the

1 consecutive period of time described herein for qualification
2 as a "prior continuous compliance taxpayer", a consecutive
3 period of time of qualifying compliance immediately prior to
4 the effective date of this amendatory Act of 1987 shall be
5 credited to any licensee who became licensed on or before the
6 effective date of this amendatory Act of 1987.

7 "Department" means the Department of Revenue.

8 "Sale" means any transfer, exchange or barter in any manner
9 or by any means whatsoever for a consideration, and includes
10 and means all sales made by any person.

11 "Original Package" means the individual packet, box or
12 other container whatsoever used to contain and to convey
13 cigarettes to the consumer.

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

15 (1) Any person engaged in the business of selling
16 cigarettes in this State who brings or causes to be brought
17 into this State from without this State any original packages
18 of cigarettes, on which original packages there is no
19 authorized evidence underneath a sealed transparent wrapper
20 showing that the tax liability imposed by this Act has been
21 paid or assumed by the out-of-State seller of such cigarettes,
22 for sale or other disposition in the course of such business.

23 (2) Any person who makes, manufactures or fabricates
24 cigarettes in this State for sale in this State, except a
25 person who makes, manufactures or fabricates cigarettes as a
26 part of a correctional industries program for sale to residents

1 incarcerated in penal institutions or resident patients of a
2 State-operated mental health facility.

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

9 "Place of business" shall mean and include any place where
10 cigarettes are sold or where cigarettes are manufactured,
11 stored or kept for the purpose of sale or consumption,
12 including any vessel, vehicle, airplane, train or vending
13 machine.

14 "Business" means any trade, occupation, activity or
15 enterprise engaged in for the purpose of selling cigarettes in
16 this State.

17 "Retailer" means any person who engages in the making of
18 transfers of the ownership of, or title to, cigarettes to a
19 purchaser for use or consumption and not for resale in any
20 form, for a valuable consideration, except a person who
21 transfers to residents incarcerated in penal institutions or
22 resident patients of a State-operated mental health facility
23 ownership of cigarettes made, manufactured, or fabricated as
24 part of a correctional industries program.

25 "Retailer" shall be construed to include any person who
26 engages in the making of transfers of the ownership of, or

1 title to, cigarettes to a purchaser, for use or consumption by
2 any other person to whom such purchaser may transfer the
3 cigarettes without a valuable consideration, except a person
4 who transfers to residents incarcerated in penal institutions
5 or resident patients of a State-operated mental health facility
6 ownership of cigarettes made, manufactured or fabricated as
7 part of a correctional industries program.

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

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

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

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

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

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

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

23 (35 ILCS 130/3) (from Ch. 120, par. 453.3)

24 Sec. 3. Affixing tax stamp; remitting tax to the
25 Department. Payment of the taxes imposed by Section 2 of this

1 Act shall (except as hereinafter provided) be evidenced by
2 revenue tax stamps affixed to each original package of
3 cigarettes. Each distributor of cigarettes, before delivering
4 or causing to be delivered any original package of cigarettes
5 in this State to a purchaser, shall firmly affix a proper stamp
6 or stamps to each such package, or (in case of manufacturers of
7 cigarettes in original packages which are contained inside a
8 sealed transparent wrapper) shall imprint the required
9 language on the original package of cigarettes beneath such
10 outside wrapper, as hereinafter provided. Any stamp required by
11 this Act shall note whether the State tax under Section 2 of
12 this Act (35 ILCS 130/2) was paid or whether the pack of
13 cigarettes was not subject to such tax.

14 No stamp or imprint may be affixed to, or made upon, any
15 package of cigarettes unless that package complies with all
16 requirements of the federal Cigarette Labeling and Advertising
17 Act, 15 U.S.C. 1331 and following, for the placement of labels,
18 warnings, or any other information upon a package of cigarettes
19 that is sold within the United States. Under the authority of
20 Section 6, the Department shall revoke the license of any
21 distributor that is determined to have violated this paragraph.
22 A person may not affix a stamp on a package of cigarettes,
23 cigarette papers, wrappers, or tubes if that individual package
24 has been marked for export outside the United States with a
25 label or notice in compliance with Section 290.185 of Title 27
26 of the Code of Federal Regulations. It is not a defense to a

1 proceeding for violation of this paragraph that the label or
2 notice has been removed, mutilated, obliterated, or altered in
3 any manner.

4 Only distributors licensed under this Act or out-of-state
5 manufacturers holding a permit under this Act may receive
6 unstamped packs of cigarettes. Prior to shipment to another
7 person, each licensed distributor or out-of-state manufacturer
8 holding a permit shall apply a stamp to each pack of cigarettes
9 imported, distributed, or sold whether or not such cigarettes
10 are subject to State tax under Section 2 of this Act (35 ILCS
11 130/2) or any other provision of State law, provided that a
12 distributor or out-of-state manufacturer may only apply a tax
13 stamp to a pack of cigarettes purchased or obtained directly
14 from a licensed distributor or an out-of-state manufacturing
15 holding a permit. Only a licensed distributor or an
16 out-of-state manufacturer holding a permit may ship or
17 otherwise cause to be delivered unstamped packs of cigarettes
18 in, into, or from this State, provided that a licensed
19 distributor or an out-of-state manufacturer holding a permit
20 may transport unstamped packs of cigarettes to a facility,
21 wherever located, owned by such distributor or manufacturer.
22 Any person that ships or otherwise causes to be delivered
23 unstamped packs of cigarettes into, within, or from this State
24 shall ensure that the invoice or equivalent documentation and
25 the bill of lading or freight bill for the shipment identifies
26 the true name and address of the cosignor or seller, the true

1 name and address of the cosignee or purchaser, and the quantity
2 by brand style of the cigarettes so transported, provided that
3 this Section shall not be construed as to impose any
4 requirement or liability upon any common or contract carrier.

5 The Department, or any person authorized by the Department,
6 shall sell such stamps only to persons holding valid licenses
7 as distributors under this Act. On and after July 1, 2003,
8 payment for such stamps must be made by means of electronic
9 funds transfer. The Department may refuse to sell stamps to any
10 person who does not comply with the provisions of this Act.
11 Beginning on the effective date of this amendatory Act of the
12 92nd General Assembly and through June 30, 2002, persons
13 holding valid licenses as distributors may purchase cigarette
14 tax stamps up to an amount equal to 115% of the distributor's
15 average monthly cigarette tax stamp purchases over the 12
16 calendar months prior to the effective date of this amendatory
17 Act of the 92nd General Assembly.

18 Prior to December 1, 1985, the Department shall allow a
19 distributor 21 days in which to make final payment of the
20 amount to be paid for such stamps, by allowing the distributor
21 to make payment for the stamps at the time of purchasing them
22 with a draft which shall be in such form as the Department
23 prescribes, and which shall be payable within 21 days
24 thereafter: Provided that such distributor has filed with the
25 Department, and has received the Department's approval of, a
26 bond, which is in addition to the bond required under Section 4

1 of this Act, payable to the Department in an amount equal to
2 80% of such distributor's average monthly tax liability to the
3 Department under this Act during the preceding calendar year or
4 \$500,000, whichever is less. The Bond shall be joint and
5 several and shall be in the form of a surety company bond in
6 such form as the Department prescribes, or it may be in the
7 form of a bank certificate of deposit or bank letter of credit.
8 The bond shall be conditioned upon the distributor's payment of
9 amount of any 21-day draft which the Department accepts from
10 that distributor for the delivery of stamps to that distributor
11 under this Act. The distributor's failure to pay any such
12 draft, when due, shall also make such distributor automatically
13 liable to the Department for a penalty equal to 25% of the
14 amount of such draft.

15 On and after December 1, 1985 and until July 1, 2003, the
16 Department shall allow a distributor 30 days in which to make
17 final payment of the amount to be paid for such stamps, by
18 allowing the distributor to make payment for the stamps at the
19 time of purchasing them with a draft which shall be in such
20 form as the Department prescribes, and which shall be payable
21 within 30 days thereafter, and beginning on January 1, 2003 and
22 thereafter, the draft shall be payable by means of electronic
23 funds transfer: Provided that such distributor has filed with
24 the Department, and has received the Department's approval of,
25 a bond, which is in addition to the bond required under Section
26 4 of this Act, payable to the Department in an amount equal to

1 150% of such distributor's average monthly tax liability to the
2 Department under this Act during the preceding calendar year or
3 \$750,000, whichever is less, except that as to bonds filed on
4 or after January 1, 1987, such additional bond shall be in an
5 amount equal to 100% of such distributor's average monthly tax
6 liability under this Act during the preceding calendar year or
7 \$750,000, whichever is less. The bond shall be joint and
8 several and shall be in the form of a surety company bond in
9 such form as the Department prescribes, or it may be in the
10 form of a bank certificate of deposit or bank letter of credit.
11 The bond shall be conditioned upon the distributor's payment of
12 the amount of any 30-day draft which the Department accepts
13 from that distributor for the delivery of stamps to that
14 distributor under this Act. The distributor's failure to pay
15 any such draft, when due, shall also make such distributor
16 automatically liable to the Department for a penalty equal to
17 25% of the amount of such draft.

18 Every prior continuous compliance taxpayer shall be exempt
19 from all requirements under this Section concerning the
20 furnishing of such bond, as defined in this Section, as a
21 condition precedent to his being authorized to engage in the
22 business licensed under this Act. This exemption shall continue
23 for each such taxpayer until such time as he may be determined
24 by the Department to be delinquent in the filing of any
25 returns, or is determined by the Department (either through the
26 Department's issuance of a final assessment which has become

1 final under the Act, or by the taxpayer's filing of a return
2 which admits tax to be due that is not paid) to be delinquent
3 or deficient in the paying of any tax under this Act, at which
4 time that taxpayer shall become subject to the bond
5 requirements of this Section and, as a condition of being
6 allowed to continue to engage in the business licensed under
7 this Act, shall be required to furnish bond to the Department
8 in such form as provided in this Section. Such taxpayer shall
9 furnish such bond for a period of 2 years, after which, if the
10 taxpayer has not been delinquent in the filing of any returns,
11 or delinquent or deficient in the paying of any tax under this
12 Act, the Department may reinstate such person as a prior
13 continuance compliance taxpayer. Any taxpayer who fails to pay
14 an admitted or established liability under this Act may also be
15 required to post bond or other acceptable security with the
16 Department guaranteeing the payment of such admitted or
17 established liability.

18 Any person aggrieved by any decision of the Department
19 under this Section may, within the time allowed by law, protest
20 and request a hearing, whereupon the Department shall give
21 notice and shall hold a hearing in conformity with the
22 provisions of this Act and then issue its final administrative
23 decision in the matter to such person. In the absence of such a
24 protest filed within the time allowed by law, the Department's
25 decision shall become final without any further determination
26 being made or notice given.

1 The Department shall discharge any surety and shall release
2 and return any bond or security deposited, assigned, pledged,
3 or otherwise provided to it by a taxpayer under this Section
4 within 30 days after:

5 (1) Such taxpayer becomes a prior continuous compliance
6 taxpayer; or

7 (2) Such taxpayer has ceased to collect receipts on which
8 he is required to remit tax to the Department, has filed a
9 final tax return, and has paid to the Department an amount
10 sufficient to discharge his remaining tax liability as
11 determined by the Department under this Act. The Department
12 shall make a final determination of the taxpayer's outstanding
13 tax liability as expeditiously as possible after his final tax
14 return has been filed. If the Department cannot make such final
15 determination within 45 days after receiving the final tax
16 return, within such period it shall so notify the taxpayer,
17 stating its reasons therefor.

18 The Department may authorize distributors to affix revenue
19 tax stamps by imprinting tax meter stamps upon original
20 packages of cigarettes. The Department shall adopt rules and
21 regulations relating to the imprinting of such tax meter stamps
22 as will result in payment of the proper taxes as herein
23 imposed. No distributor may affix revenue tax stamps to
24 original packages of cigarettes by imprinting tax meter stamps
25 thereon unless such distributor has first obtained permission
26 from the Department to employ this method of affixation. The

1 Department shall regulate the use of tax meters and may, to
2 assure the proper collection of the taxes imposed by this Act,
3 revoke or suspend the privilege, theretofore granted by the
4 Department to any distributor, to imprint tax meter stamps upon
5 original packages of cigarettes.

6 Illinois cigarette manufacturers who place their
7 cigarettes in original packages which are contained inside a
8 sealed transparent wrapper, and similar out-of-State cigarette
9 manufacturers who elect to qualify and are accepted by the
10 Department as distributors under Section 4b of this Act, shall
11 pay the taxes imposed by this Act by remitting the amount
12 thereof to the Department by the 5th day of each month covering
13 cigarettes shipped or otherwise delivered in Illinois to
14 purchasers during the preceding calendar month. Such
15 manufacturers of cigarettes in original packages which are
16 contained inside a sealed transparent wrapper, before
17 delivering such cigarettes or causing such cigarettes to be
18 delivered in this State to purchasers, shall evidence their
19 obligation to remit the taxes due with respect to such
20 cigarettes by imprinting language to be prescribed by the
21 Department on each original package of such cigarettes
22 underneath the sealed transparent outside wrapper of such
23 original package, in such place thereon and in such manner as
24 the Department may designate. Such imprinted language shall
25 acknowledge the manufacturer's payment of or liability for the
26 tax imposed by this Act with respect to the distribution of

1 such cigarettes.

2 A distributor shall not affix, or cause to be affixed, any
3 stamp or imprint to a package of cigarettes, as provided for in
4 this Section, if the tobacco product manufacturer, as defined
5 in Section 10 of the Tobacco Product Manufacturers' Escrow Act,
6 that made or sold the cigarettes has failed to become a
7 participating manufacturer, as defined in subdivision (a)(1)
8 of Section 15 of the Tobacco Product Manufacturers' Escrow Act,
9 or has failed to create a qualified escrow fund for any
10 cigarettes manufactured by the tobacco product manufacturer
11 and sold in this State or otherwise failed to bring itself into
12 compliance with subdivision (a)(2) of Section 15 of the Tobacco
13 Product Manufacturers' Escrow Act.

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

16 (35 ILCS 130/3-10)

17 Sec. 3-10. Cigarette enforcement.

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

19 (1) to sell or distribute in this State; to acquire,
20 hold, own, possess, or transport, for sale or distribution
21 in this State; or to import, or cause to be imported into
22 this State for sale or distribution in this State:

23 (A) any cigarettes the package of which:

24 (i) bears any statement, label, stamp,
25 sticker, or notice indicating that the

1 manufacturer did not intend the cigarettes to be
2 sold, distributed, or used in the United States,
3 including but not limited to labels stating "For
4 Export Only", "U.S. Tax Exempt", "For Use Outside
5 U.S.", or similar wording; or

6 (ii) does not comply with:

7 (aa) all requirements imposed by or
8 pursuant to federal law regarding warnings and
9 other information on packages of cigarettes
10 manufactured, packaged, or imported for sale,
11 distribution, or use in the United States,
12 including but not limited to the precise
13 warning labels specified in the federal
14 Cigarette Labeling and Advertising Act, 15
15 U.S.C. 1333; and

16 (bb) all federal trademark and copyright
17 laws;

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

21 (C) any cigarettes that such person otherwise
22 knows or has reason to know the manufacturer did not
23 intend to be sold, distributed, or used in the United
24 States; or

25 (D) any cigarettes for which there has not been
26 submitted to the Secretary of the U.S. Department of

1 Health and Human Services the list or lists of the
2 ingredients added to tobacco in the manufacture of the
3 cigarettes required by the federal Cigarette Labeling
4 and Advertising Act, 15 U.S.C. 1335a;

5 (2) to alter the package of any cigarettes, prior to
6 sale or distribution to the ultimate consumer, so as to
7 remove, conceal, or obscure:

8 (A) any statement, label, stamp, sticker, or
9 notice described in subdivision (a)(1)(A)(i) of this
10 Section;

11 (B) any health warning that is not specified in, or
12 does not conform with the requirements of, the federal
13 Cigarette Labeling and Advertising Act, 15 U.S.C.
14 1333; ~~or~~

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

19 (4) to knowingly possess, or possess for sale,
20 contraband cigarettes.

21 (b) Documentation. On the first business day of each month,
22 each person licensed to affix the State tax stamp to cigarettes
23 shall file with the Department, for all cigarettes imported
24 into the United States to which the person has affixed the tax
25 stamp in the preceding month:

26 (1) a copy of:

1 (A) the permit issued pursuant to the Internal
2 Revenue Code, 26 U.S.C. 5713, to the person importing
3 the cigarettes into the United States allowing the
4 person to import the cigarettes; and

5 (B) the customs form containing, with respect to
6 the cigarettes, the internal revenue tax information
7 required by the U.S. Bureau of Alcohol, Tobacco and
8 Firearms;

9 (2) a statement, signed by the person under penalty of
10 perjury, which shall be treated as confidential by the
11 Department and exempt from disclosure under the Freedom of
12 Information Act, identifying the brand and brand styles of
13 all such cigarettes, the quantity of each brand style of
14 such cigarettes, the supplier of such cigarettes, and the
15 person or persons, if any, to whom such cigarettes have
16 been conveyed for resale; and a separate statement, signed
17 by the individual under penalty of perjury, which shall not
18 be treated as confidential or exempt from disclosure,
19 separately identifying the brands and brand styles of such
20 cigarettes; and

21 (3) a statement, signed by an officer of the
22 manufacturer or importer under penalty of perjury,
23 certifying that the manufacturer or importer has complied
24 with:

25 (A) the package health warning and ingredient
26 reporting requirements of the federal Cigarette

1 Labeling and Advertising Act, 15 U.S.C. 1333 and 1335a,
2 with respect to such cigarettes; and

3 (B) the provisions of Exhibit T of the Master
4 Settlement Agreement entered in the case of People of
5 the State of Illinois v. Philip Morris, et al. (Circuit
6 Court of Cook County, No. 96-L13146), including a
7 statement indicating whether the manufacturer is, or
8 is not, a participating tobacco manufacturer within
9 the meaning of Exhibit T.

10 (c) Administrative sanctions.

11 (1) Upon finding that a distributor has committed any
12 of the acts prohibited by subsection (a), knowing or having
13 reason to know that he or she has done so, or has failed to
14 comply with any requirement of subsection (b), the
15 Department may revoke or suspend the license or licenses of
16 any distributor pursuant to the procedures set forth in
17 Section 6 and impose on the distributor a civil penalty in
18 an amount not to exceed the greater of 500% of the retail
19 value of the cigarettes involved or \$5,000.

20 (2) Cigarettes that are acquired, held, owned,
21 possessed, transported in, imported into, or sold or
22 distributed in this State in violation of this Section
23 shall be deemed contraband under this Act and are subject
24 to seizure and forfeiture as provided in this Act, and all
25 such cigarettes seized and forfeited shall be destroyed.
26 Such cigarettes shall be deemed contraband whether the

1 violation of this Section is knowing or otherwise.

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

6 (e) Unfair cigarette sales. For purposes of the Trademark
7 Registration and Protection Act and the Counterfeit Trademark
8 Act, cigarettes imported or reimported into the United States
9 for sale or distribution under any trade name, trade dress, or
10 trademark that is the same as, or is confusingly similar to,
11 any trade name, trade dress, or trademark used for cigarettes
12 manufactured in the United States for sale or distribution in
13 the United States shall be presumed to have been purchased
14 outside of the ordinary channels of trade.

15 (f) General provisions.

16 (1) This Section shall be enforced by the Department;
17 provided that, at the request of the Director of Revenue or
18 the Director's duly authorized agent, the State police and
19 all local police authorities shall enforce the provisions
20 of this Section. The Attorney General has concurrent power
21 with the State's Attorney of any county to enforce this
22 Section.

23 (2) For the purpose of enforcing this Section, the
24 Director of Revenue and any agency to which the Director
25 has delegated enforcement responsibility pursuant to
26 subdivision (f)(1) may request information from any State

1 or local agency and may share information with and request
2 information from any federal agency and any agency of any
3 other state or any local agency of any other state.

4 (3) In addition to any other remedy provided by law,
5 including enforcement as provided in subdivision (a)(1),
6 any person may bring an action for appropriate injunctive
7 or other equitable relief for a violation of this Section;
8 actual damages, if any, sustained by reason of the
9 violation; and, as determined by the court, interest on the
10 damages from the date of the complaint, taxable costs, and
11 reasonable attorney's fees. If the trier of fact finds that
12 the violation is flagrant, it may increase recovery to an
13 amount not in excess of 3 times the actual damages
14 sustained by reason of the violation.

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

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

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

18 (h) Applicability.

19 (1) This Section does not apply to:

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

22 (B) cigarettes sold or intended to be sold as
23 duty-free merchandise by a duty-free sales enterprise
24 in accordance with the provisions of 19 U.S.C. 1555(b)
25 and any implementing regulations; except that this
26 Section shall apply to any such cigarettes that are

1 brought back into the customs territory for resale
2 within the customs territory.

3 (2) The penalties provided in this Section are in
4 addition to any other penalties imposed under other
5 provision of law.

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

7 (35 ILCS 130/3-15 new)

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

9 (a) Civil penalties.

10 (1) Distributors and manufacturers. Except as
11 otherwise provided in this Section, a first violation of
12 any provision of this Act by a manufacturer or distributor
13 shall, in addition to any other penalty provided in this
14 Act, be punishable by a fine of \$5,000 for each separate
15 violation, which shall be recovered, with costs of suit, in
16 a civil action. Any subsequent violation of any provision
17 of this Act by a manufacturer or distributor shall be
18 punishable by a fine of \$10,000 for each separate
19 violation. In no case shall the fine imposed under this
20 paragraph exceed 10 times the retail value of the
21 cigarettes.

22 (2) Retailers. Except as otherwise provided in this
23 Section, a first violation of any provision of this Act by
24 a retailer shall, in addition to any other penalty provided
25 in this Act, be punishable by a fine of \$1,000 for each

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

7 (3) Failure to pay tax. Any person that fails to pay
8 any tax imposed by this State at the time prescribed by law
9 or regulations shall, in addition to any other penalty
10 provided in this Act, be liable to a penalty of 3 times the
11 tax due but unpaid, to help defray the costs of detection
12 and investigation and any consequential damages. In no case
13 shall the fine imposed under this paragraph exceed 10 times
14 the retail value of the cigarettes.

15 (4) Civil forfeiture.

16 (A) All cigarettes which are held for sale or
17 distribution within this State in violation of the
18 requirements of this Act shall be forfeited to this
19 State. All cigarettes forfeited to this State under
20 this Act shall be destroyed. The Department may, prior
21 to any destruction of cigarettes, permit the true
22 holder of the trademark rights in the cigarette brand
23 to inspect such contraband cigarettes, in order to
24 assist the Department in any investigation regarding
25 such cigarettes.

26 (B) Any person that, with intent to defraud the

1 State:

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

4 (ii) keeps or makes any false or fraudulent
5 record, return, report, or inventory required by
6 this Act;

7 (iii) refuses to pay any tax imposed by this
8 Act; or

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

13 (C) A distributor or retailer shall not be required
14 to forfeit fixtures, equipment, and all other
15 materials and personal property on the premises if such
16 distributor or retailer:

17 (i) acted in good faith;

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

20 (iii) did all that reasonably could be
21 expected under the circumstances to prevent
22 violations of this Act.

23 (5) Notwithstanding any other provision of law, the
24 Department may use proceeds from civil penalties imposed
25 under this Section to offset necessary and reasonable
26 expenses incurred in the detection and investigation of the

1 failure of any person to pay any cigarette tax imposed by
2 this State.

3 (b) Criminal penalties.

4 (1) Fraudulent offenses. Whoever intentionally fails
5 to comply with any of the requirements of this Act or
6 regulations prescribed hereunder shall, in addition to any
7 other penalty provided in this Act, for each such offense,
8 be guilty of a Class 3 felony.

9 (2) Knowing offenses. Whoever, knowingly violates any
10 of the requirements of this Act or regulations prescribed
11 hereunder shall, in addition to any other penalty provided
12 in this Act, for each such offense, be guilty of a Class 4
13 felony.

14 (3) Penalties for contraband. Notwithstanding any
15 other provision of law, the possession for sale of
16 contraband cigarettes by a manufacturer, distributor, or
17 retailer shall be punishable as follows:

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

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

26 (4) For purposes of this Section, the term contraband

1 cigarettes includes cigarettes that have false
2 manufacturing labels or packs of cigarettes bearing
3 counterfeit tax stamps. Any contraband cigarette seized by
4 this State shall be destroyed. The Department may, prior to
5 any destruction of cigarettes, permit the true holder of
6 the trademark rights in the cigarette brand to inspect such
7 contraband cigarettes, in order to assist the Department in
8 any investigation regarding such cigarettes.

9 (5) The penalties provided in paragraph (3) shall not
10 apply where a licensed distributor is in possession of
11 contraband cigarettes as a result of such cigarettes being
12 returned to the distributor by a retailer if such
13 distributor promptly notified appropriate law enforcement
14 authorities.

15 (6) Criminal forfeiture.

16 (A) Notwithstanding any other provision of law,
17 the possession for sale of contraband cigarettes by a
18 manufacturer, distributor, or retailer shall, after
19 notice and hearing, result in the forfeiture to this
20 State of the product and related machinery and
21 equipment used in the production of contraband
22 cigarettes, or to falsely mark cigarettes to reflect
23 the payment of excise taxes.

24 (B) The knowing sale or possession for sale of
25 contraband cigarettes shall, after notice and hearing,
26 result in the seizure of all related machinery and

1 equipment.

2 (C) All cigarettes forfeited to this State under
3 this Section shall be destroyed. The Department may,
4 prior to any destruction of cigarettes, permit the true
5 holder of the trademark rights in the cigarette brand
6 to inspect such contraband cigarettes, in order to
7 assist the Department in any investigation regarding
8 such cigarettes.

9 (35 ILCS 130/3-20 new)

10 Sec. 3-20. Limitation on retail sales. A retailer shall not
11 knowingly sell or distribute more than 10 cartons of cigarettes
12 to any person in a single transaction or in any series of
13 transactions within a twenty-four hour period; provided,
14 however, that a retailer that is licensed as a distributor may
15 make any sales permitted to be made by a distributor under this
16 Act when acting in that capacity.

17 (35 ILCS 130/4) (from Ch. 120, par. 453.4)

18 Sec. 4. Distributor's license. No person may engage in
19 business as a distributor of cigarettes in this State within
20 the meaning of the first 2 definitions of distributor in
21 Section 1 of this Act without first having obtained a license
22 therefor from the Department. Application for license shall be
23 made to the Department in form as furnished and prescribed by
24 the Department. Each applicant for a license under this Section

1 shall furnish to the Department on the form signed and verified
2 by the applicant under penalty of perjury the following
3 information:

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

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

9 (c) If the applicant is an individual, the identity of
10 any license holder in which the individual, directly or
11 indirectly, owns more than 15 percent of the ownership
12 interests;

13 (d) If the applicant is a corporation or limited
14 liability company, the name and business address of each of
15 its officers and the name and business address of any
16 person that owns, directly or indirectly, in the aggregate,
17 more than 15 percent of the ownership interests in the
18 corporation or limited liability company and the name and
19 business address of any license holder in which the
20 applicant owns more than 15 percent of the ownership
21 interests;

22 (e) The name under which such applicant regularly does
23 business;

24 (f) The physical address of the applicant's principal
25 place of business and any other place of business within
26 this State;

1 (g) In the case of a distributor who manufacturers or
2 imports cigarettes, the brand styles of cigarettes the
3 applicant manufactures or imports;

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

5 (i) Sufficient information to demonstrate that the
6 applicant has complied or will comply with all of the
7 requirements of this Act, including the identity of any
8 related party;

9 (j) Whether the applicant has committed any act in the
10 previous 5 years that would render the applicant ineligible
11 for a license or whether the applicant has been convicted
12 of a crime related to contraband cigarettes, punishable by
13 imprisonment of one year or more; or

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

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

18 (k) ~~(e)~~ Such other additional information as the
19 Department may lawfully require by its rules and
20 regulations.

21 The annual license fee payable to the Department for each
22 distributor's license shall be \$250. The purpose of such annual
23 license fee is to defray the cost, to the Department, of
24 serializing cigarette tax stamps. Each applicant for license
25 shall pay such fee to the Department at the time of submitting
26 his application for license to the Department.

1 Every applicant who is required to procure a distributor's
2 license shall file with his application a joint and several
3 bond. Such bond shall be executed to the Department of Revenue,
4 with good and sufficient surety or sureties residing or
5 licensed to do business within the State of Illinois, in the
6 amount of \$2,500, conditioned upon the true and faithful
7 compliance by the licensee with all of the provisions of this
8 Act. Such bond, or a reissue thereof, or a substitute therefor,
9 shall be kept in effect during the entire period covered by the
10 license. A separate application for license shall be made, a
11 separate annual license fee paid, and a separate bond filed,
12 for each place of business at which a person who is required to
13 procure a distributor's license under this Section proposes to
14 engage in business as a distributor in Illinois under this Act.

15 The following are ineligible to receive a distributor's
16 license under this Act:

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

19 (2) a person who has been convicted of a felony
20 under any Federal or State law, if the Department,
21 after investigation and a hearing, if requested by the
22 applicant, determines that such person has not been
23 sufficiently rehabilitated to warrant the public
24 trust;

25 (3) a corporation, if any officer, manager or
26 director thereof, or any stockholder or stockholders

1 owning in the aggregate more than 5% of the stock of
2 such corporation, would not be eligible to receive a
3 license under this Act for any reason.

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

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

12 (b) had a license under this Act revoked within
13 the past two years by the Department for willful
14 misconduct relating to stolen or contraband
15 cigarettes or has been convicted of a State or
16 federal crime, punishable by imprisonment of one
17 year or more, relating to stolen or contraband
18 cigarettes;

19 (c) is a distributor who manufactures
20 cigarettes who is neither (i) a participating
21 manufacturer as defined in subsection II(jj) of
22 the "Master Settlement Agreement" as defined in
23 Sections 10 of the Tobacco Products Manufacturers'
24 Escrow Act and the Tobacco Products Manufacturers'
25 Escrow Enforcement Act of 2003 (30 ILCS 168/10 and
26 30 ILCS 167/10); nor (ii) in full compliance with

1 Tobacco Products Manufacturers' Escrow Act and the
2 Tobacco Products Manufacturers' Escrow Enforcement
3 Act of 2003 (30 ILCS 168/ and 30 ILCS 167/);

4 (d) has been found to have willfully imported
5 or caused to be imported into the United States for
6 sale or distribution any cigarette in violation of
7 19 U.S.C. 1681a;

8 (e) has been found to have willfully imported
9 or caused to be imported into the United States for
10 sale or distribution or manufactured for sale or
11 distribution in the United States any cigarette
12 that does not fully comply with the Federal
13 Cigarette Labeling and Advertising Act (15 U.S.C.
14 1331, et. seq.); or

15 (f) has willfully made a material false
16 statement in the application or has willfully
17 failed to produce records required to be
18 maintained by this Act.

19 The Department, upon receipt of an application, license fee
20 and bond in proper form, from a person who is eligible to
21 receive a distributor's license under this Act, shall issue to
22 such applicant a revocable license in form as prescribed by the
23 Department, which license shall permit the applicant to which
24 it is issued to engage in business as a distributor at the
25 place shown in his application. A distributor that operates at
26 multiple locations within this State must possess a separate,

1 individual license for each such location. To assist in the
2 valid administrative needs of the Department, the Department
3 shall assign each licensee a unique numerical identifier. All
4 licenses issued by the Department under this Act shall be valid
5 for not to exceed one year after issuance unless sooner
6 revoked, canceled or suspended as provided in this Act. No
7 license issued under this Act is transferable or assignable.
8 Such license shall be conspicuously displayed in the place of
9 business conducted by the licensee in Illinois under such
10 license. No distributor licensee acquires any vested interest
11 or compensable property right in a license issued under this
12 Act.

13 A licensed distributor shall notify the Department of any
14 change in the information contained on the application form,
15 including any change in ownership and shall do so within 30
16 days after any such change.

17 Any person aggrieved by any decision of the Department
18 under this Section may, within 20 days after notice of the
19 decision, protest and request a hearing. Upon receiving a
20 request for a hearing, the Department shall give notice to the
21 person requesting the hearing of the time and place fixed for
22 the hearing and shall hold a hearing in conformity with the
23 provisions of this Act and then issue its final administrative
24 decision in the matter to that person. In the absence of a
25 protest and request for a hearing within 20 days, the
26 Department's decision shall become final without any further

1 determination being made or notice given.

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

3 (35 ILCS 130/4c new)

4 Sec. 4c. Retailer's sub-certificate of registration. No
5 person may engage in business as a retailer in this State
6 without having obtained both a certificate of registration
7 described in Section 2a of the Retailers' Occupation Tax Act
8 (35 ILCS 120/2a) and a sub-certificate of registration
9 described in this Section. To engage in the business of selling
10 cigarettes at retail, retailers must obtain and maintain a
11 sub-certificate of registration from the Department prior to
12 the date of issuance or renewal of a retailer certificate of
13 registration. Such retailer sub-certificates shall be issued
14 without charge in such form as the Department may prescribe and
15 shall not be transferable or assignable.

16 The expiration date of a retailer's sub-certificate of
17 registration shall be that of the certificate of registration
18 to which the sub-certificate relates, but shall not be valid
19 after the expiration of 5 years from the date of its issuance
20 or last renewal. The retailer's sub-certificate of
21 registration shall not renew automatically. Sub-certificates
22 of registration shall be renewed only upon timely application.

23 The Department shall issue sub-certificates of
24 registration to retailers pursuant to this Act and under such
25 terms and conditions as it may determine to further the

1 requirements of this Act for each separate place of business
2 for each retailer within this State. Retailers shall
3 prominently display the appropriate sub-certificate of
4 registration at each place of business in such a manner as to
5 ensure that it is visible to all persons entering the place of
6 business. All sub-certificates of registration shall bear the
7 same registration number as that appearing upon the certificate
8 of registration to which the sub-certificate relates.

9 Application for a retailer's sub-certificate of
10 registration or a renewal thereof shall be made to the
11 Department upon forms furnished and prescribed by the
12 Department. Each such application shall be signed and verified
13 under penalty of perjury and shall state:

14 (1) if the applicant is an individual, the name and
15 business address of the applicant;

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

19 (3) if the applicant is an individual, the identity of
20 any distributor, manufacturer, or retailer in which the
21 individual, directly or indirectly, owns more than 15
22 percent of the ownership interests;

23 (4) if the applicant is a corporation or limited
24 liability company, the name and business address of each of
25 its officers and the name and business address of any
26 person who owns, directly or indirectly, in the aggregate,

1 more than 15 percent of the ownership interests in the
2 corporation or limited liability company and the name and
3 business address of any distributor, manufacturer, or
4 retailer in which the applicant owns more than 15 percent
5 of the ownership interests;

6 (5) the name under which such applicant regularly does
7 business;

8 (6) the physical address of the applicant's principal
9 place of business and any other place of business within
10 this state;

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

12 (8) sufficient information to demonstrate that the
13 applicant has complied or will comply with all of the
14 requirements of this Act, including the identity of any
15 related party; and

16 (9) whether the applicant has committed any act in the
17 previous 5 years that would render the applicant ineligible
18 for a sub-certificate of registration or whether the
19 applicant has been convicted of a crime related to
20 contraband cigarettes, punishable by imprisonment of one
21 year or more.

22 The Department shall not grant or renew a sub-certificate
23 of registration or allow such a sub-certificate to be
24 maintained if it determines the applicant or any person who
25 owns more than 15 percent of the ownership interests in the
26 applicant or a related party:

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

6 (2) had a sub-certificate of registration under this
7 Act revoked within the past two years by the Department for
8 willful misconduct relating to stolen or contraband
9 cigarettes or has been convicted of a State or Federal
10 crime, punishable by imprisonment of one year or more,
11 relating to stolen or contraband cigarettes;

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

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

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

24 A retailer shall notify the Department of any change in the
25 information contained on the application form, including any
26 change in ownership and shall do so within 30 days of any such

1 change.

2 No retailer acquires any vested interest or compensable
3 property right in a sub-certificate of registration issued
4 under this Act.

5 (35 ILCS 130/4d new)

6 Sec. 4d. Transactions only with licensed distributors,
7 out-of-state manufacturers holding a permit, and retailers
8 holding a sub-certificate of registration. A distributor or
9 manufacturer may sell or distribute cigarettes to a person
10 located or doing business within this State only if such person
11 is a licensed distributor or retailer holding a sub-certificate
12 of registration. A retailer may only sell cigarettes obtained
13 from a licensed distributor or an out-of-state manufacturer
14 holding a permit.

15 (35 ILCS 130/4e new)

16 Sec. 4e. Proof of license, permit, or sub-certificate
17 required. A distributor, manufacturer, or retailer shall,
18 prior to the initial sale or exchange of cigarettes with any
19 person that is required to be licensed, hold a permit, or hold
20 a sub-certificate under this Act, require proof of a valid
21 license, permit, or sub-certificate for the relevant business
22 location issued under this Act.

23 (35 ILCS 130/4f new)

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

16 (35 ILCS 130/4g new)

17 Sec. 4g. Maintenance of and publication of list of
18 licensees, permittees, and sub-certificate holders whose
19 licenses, permits, or sub-certificates have been suspended,
20 cancelled, or revoked. Within 30 days after the effective date
21 of this amendatory Act of the 95th General Assembly, the
22 Department shall create and maintain a website setting forth
23 the identity of all persons whose licenses, permits, or
24 sub-certificates have been suspended, cancelled, or revoked
25 under this Act within the past 3 years, itemized by type of

1 license, permit, or sub-certificate, and shall update the
2 website within 30 days after the date the Department suspends,
3 cancels, or revokes any person's license, permit, or
4 sub-certificate. The Department shall, at a minimum, include on
5 the website the legal name, the business locations, the unique
6 numerical identifier issued prior to the suspension,
7 cancellation, or revocation of the, and any name under which
8 such licensee, permittee, or sub-certificate holder regularly
9 does business.

10 (35 ILCS 130/5) (from Ch. 120, par. 453.5)

11 Sec. 5. Printing tax stamps. The Department shall adopt the
12 design or designs of the tax stamps or alternative tax indicia
13 and shall procure the printing of such stamps or alternative
14 tax indicia in such amounts and denominations as it deems
15 necessary to provide for the affixation of the proper amount of
16 tax stamps or alternative tax indicia to each original package
17 of cigarettes.

18 Each roll or sheet of tax stamps shall have a separate and
19 unique serial number that shall be clearly visible at the point
20 of sale. The Department shall keep records of which licensed
21 distributor or out-of-state manufacturer holding a permit
22 purchases each roll or sheet of stamps identified by serial
23 number.

24 Each licensed distributor or out-of-state manufacturer
25 holding a permit authorized by the Department to make meter

1 impressions shall be assigned a unique meter impression number,
2 which number shall not be used by any other distributor or
3 manufacturer and shall be visible and easily identifiable on
4 the impression at the point of sale on each pack of cigarettes.
5 The Department shall keep records detailing the meter
6 impression number assigned to each licensed distributor or
7 out-of-state manufacturer holding a permit.

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

9 (35 ILCS 130/6a new)

10 Sec. 6a. Revocation, cancellation, or suspension of
11 retailer's sub-certificate of registration. The Department
12 may, after notice and hearing as provided for by this Act,
13 revoke, cancel or suspend a retailers' sub-certificate of
14 registration for the violation of any provision of this Act, or
15 for noncompliance with any provision herein contained, or for
16 any noncompliance with any lawful rule or regulation
17 promulgated by the Department, or because the sub-certificate
18 holder is determined to be ineligible for a retailer's
19 sub-certificate of registration for any one or more of the
20 reasons provided for in Section 4c of this Act (35 ILCS
21 130/4c). However, no such sub-certificate shall be revoked,
22 cancelled or suspended, except after a hearing by the
23 Department with notice to the retailer, as aforesaid, and
24 affording such retailer a reasonable opportunity to appear and
25 defend, and any retailer aggrieved by any decision of the

1 Department with respect thereto may have the determination of
2 the Department judicially reviewed, as herein provided.

3 A retailer's sub-certificate of registration is revoked,
4 cancelled, or suspended if the retail certificate of
5 registration to which it relates is revoked, cancelled, or
6 suspended. However, no such sub-certificate shall be revoked,
7 cancelled, or suspended, except after a hearing by the
8 Department with notice to the retailer, as aforesaid, and
9 affording such retailer a reasonable opportunity to appear and
10 defend, and any retailer aggrieved by any decision of the
11 Department with respect thereto may have the determination of
12 the Department judicially reviewed, as herein provided.

13 Any retailer aggrieved by any decision of the Department
14 under this Section may, within 20 days after notice of the
15 decision, protest and request a hearing. Upon receiving a
16 request for a hearing, the Department shall give notice in
17 writing to the retailer requesting the hearing that contains a
18 statement of the charges preferred against the retailer and
19 that states the time and place fixed for the hearing. The
20 Department shall hold the hearing in conformity with the
21 provisions of this Act and then issue its final administrative
22 decision in the matter to the retailer. In the absence of a
23 protest and request for a hearing within 20 days, the
24 Department's decision shall become final without any further
25 determination being made or notice given.

26 No sub-certificate so revoked, as aforesaid, shall be

1 reissued to any such retailer within a period of 6 months after
2 the date of the final determination of such revocation. No such
3 sub-certificate shall be reissued at all so long as the person
4 who would receive the sub-certificate is ineligible to receive
5 a retailer's sub-certificate of registration under this Act for
6 any one or more of the reasons provided for in Section 4c of
7 this Act (35 ILCS 130/4c).

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

12 (35 ILCS 130/11) (from Ch. 120, par. 453.11)

13 Sec. 11. Every distributor of cigarettes, who is required
14 to procure a license under this Act, shall keep within
15 Illinois, at his licensed address, complete and accurate
16 records of cigarettes held, purchased, manufactured, brought
17 in or caused to be brought in from without the State, and sold,
18 or otherwise disposed of, and shall preserve and keep within
19 Illinois at his licensed address all invoices, bills of lading,
20 sales records, copies of bills of sale, inventory at the close
21 of each period for which a return is required of all cigarettes
22 on hand and of all cigarette revenue stamps, both affixed and
23 unaffixed, and other pertinent papers and documents relating to
24 the manufacture, purchase, sale or disposition of cigarettes.
25 All books and records and other papers and documents that are

1 required by this Act to be kept shall be itemized by quantity
2 and brand style, itemized for each of the distributor's
3 facilities, kept in the English language, and shall, at all
4 times during the usual business hours of the day, be subject to
5 inspection by the Department or its duly authorized agents and
6 employees. The Department may adopt rules that establish
7 requirements, including record forms and formats, for records
8 required to be kept and maintained by taxpayers. For purposes
9 of this Section, "records" means all data maintained by the
10 taxpayer, including data on paper, microfilm, microfiche or any
11 type of machine-sensible data compilation. Those books,
12 records, papers and documents shall be preserved for a period
13 of at least 3 years after the date of the documents, or the
14 date of the entries appearing in the records, unless the
15 Department, in writing, authorizes their destruction or
16 disposal at an earlier date. At all times during the usual
17 business hours of the day any duly authorized agent or employee
18 of the Department may enter any place of business of the
19 distributor, without a search warrant, and inspect the premises
20 and the stock or packages of cigarettes and the vending devices
21 therein contained, to determine whether any of the provisions
22 of this Act are being violated. If such agent or employee is
23 denied free access or is hindered or interfered with in making
24 such examination as herein provided, the license of the
25 distributor at such premises shall be subject to revocation by
26 the Department.

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

2 (35 ILCS 130/11a new)

3 Sec. 11a. Retailer records. Every cigarette retailer who is
4 required to procure a sub-certificate of registration under
5 this Act shall keep within Illinois, at the corresponding place
6 of business, copies of invoices or equivalent documentation,
7 itemized by quantity and brand style, for each transaction
8 involving the sale, purchase, transfer, consignment, or
9 receipt of packs of cigarettes.

10 Records required under this Section shall be preserved on
11 the premises described in the relevant sub-certificate of
12 registration in such a manner as to ensure permanency and
13 accessibility for inspection. All books and records and other
14 papers and documents required by this Act to be kept shall be
15 kept in the English language, and shall, at all times during
16 the usual business hours of the day, be subject to inspection
17 by the Department or its duly authorized agents and employees.
18 Such books and records shall be preserved for a period of at
19 least 3 years after the date of the documents, or the date of
20 the entries appearing in the records.

21 At all times during the usual business hours of the day any
22 duly authorized agent or employee of the Department may enter
23 any place of business of the retailer, without a search
24 warrant, and inspect the premises and the stock or packages of
25 cigarettes and the vending devices therein contained, to

1 determine whether any of the provisions of this Act are being
2 violated. If such agent or employee is denied free access or is
3 hindered or interfered with in making such examination as
4 herein provided, the sub-certificate of the retailer at such
5 premises shall be subject to revocation by the Department.

6 The Department is authorized to disclose to the Attorney
7 General any information received under this Section and
8 requested by the Attorney General. The Department and the
9 Attorney General shall share with each other the information
10 received under this Section and may share the information with
11 other federal, State, or local agencies for purposes of
12 enforcement of this Act or the laws of the Federal government
13 or of other States.

14 (35 ILCS 130/20) (from Ch. 120, par. 453.20)

15 Sec. 20. Whenever any peace officer of the State or any
16 duly authorized officer or employee of the Department shall
17 have reason to believe that any violation of this Act has
18 occurred and that the person so violating the Act has in his,
19 her or its possession any original package of cigarettes, not
20 tax stamped or tax imprinted underneath the sealed transparent
21 wrapper of such original package as required by this Act, or
22 any vending device containing such original packages to which
23 stamps have not been affixed, or on which an authorized
24 substitute for stamps has not been imprinted underneath the
25 sealed transparent wrapper of such original packages, as

1 required by this Act, he may file or cause to be filed his
2 complaint in writing, verified by affidavit, with any court
3 within whose jurisdiction the premises to be searched are
4 situated, stating the facts upon which such belief is founded,
5 the premises to be searched, and the property to be seized, and
6 procure a search warrant and execute the same. Upon the
7 execution of such search warrant, the peace officer, or officer
8 or employee of the Department, executing such search warrant
9 shall make due return thereof to the court issuing the same,
10 together with an inventory of the property taken thereunder.
11 The court shall thereupon issue process against the owner of
12 such property if he is known; otherwise, such process shall be
13 issued against the person in whose possession the property so
14 taken is found, if such person is known. In case of inability
15 to serve such process upon the owner or the person in
16 possession of the property at the time of its seizure, as
17 hereinbefore provided, notice of the proceedings before the
18 court shall be given as required by the statutes of the State
19 governing cases of Attachment. Upon the return of the process
20 duly served or upon the posting or publishing of notice made,
21 as hereinabove provided, the court or jury, if a jury shall be
22 demanded, shall proceed to determine whether or not such
23 property so seized was held or possessed in violation of this
24 Act, or whether, if a vending device has been so seized, it
25 contained at the time of its seizure original packages not tax
26 stamped or tax imprinted underneath the sealed transparent

1 wrapper of such original packages as required by this Act. In
2 case of a finding that the original packages seized were not
3 tax stamped or tax imprinted underneath the sealed transparent
4 wrapper of such original packages in accordance with the
5 provisions of this Act, or that any vending device so seized
6 contained at the time of its seizure original packages not tax
7 stamped or tax imprinted underneath the sealed transparent
8 wrapper of such original packages in accordance with the
9 provisions of this Act, judgment shall be entered confiscating
10 and forfeiting the property to the State and ordering its
11 delivery to the Department, and in addition thereto, the court
12 shall have power to tax and assess the costs of the
13 proceedings.

14 When any original packages or any cigarette vending device
15 shall have been declared forfeited to the State by any court,
16 as hereinbefore provided, and when such confiscated and
17 forfeited property shall have been delivered to the Department,
18 as provided in this Act, the said Department shall destroy ~~sell~~
19 such property. The Department may, prior to any destruction of
20 cigarettes, permit the true holder of the trademark rights in
21 the cigarette brand to inspect such contraband cigarettes, in
22 order to assist the Department in any investigation regarding
23 such cigarettes. ~~for the best price obtainable and shall~~
24 ~~forthwith pay over the proceeds of such sale to the State~~
25 ~~Treasurer; provided, however, that if the value of such~~
26 ~~property to be sold at any one time shall be \$500 or more, such~~

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

5 ~~Upon making such a sale of original packages of cigarettes~~
6 ~~which were not tax stamped or tax imprinted underneath the~~
7 ~~sealed transparent wrapper of such original packages as~~
8 ~~required by this Act, the Department shall affix a distinctive~~
9 ~~stamp to each of the original packages so sold indicating that~~
10 ~~the same are sold pursuant to the provisions of this Section.~~

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

12 (35 ILCS 130/21) (from Ch. 120, par. 453.21)

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

14 (a) When any original packages of cigarettes or any
15 cigarette vending device shall have been declared forfeited to
16 the State by the Department, as provided in Section 18a of this
17 Act, and when all proceedings for the judicial review of the
18 Department's decision have terminated, the Department shall,
19 to the extent that its decision is sustained on review,
20 ~~destroy,~~ or maintain and use such property in an undercover
21 capacity, ~~or sell such property for the best price obtainable~~
22 ~~and shall forthwith pay over the proceeds of such sale to the~~
23 ~~State Treasurer. If the value of such property to be sold at~~
24 ~~any one time is \$500 or more, however, such property shall be~~
25 ~~sold only to the highest and best bidder on such terms and~~

1 ~~conditions and on open competitive bidding after public~~
2 ~~advertisement, in such manner and for such terms as the~~
3 ~~Department, by rule, may prescribe.~~

4 (b) The Department may, prior to any destruction of
5 cigarettes, permit the true holder of the trademark rights in
6 the cigarette brand to inspect such contraband cigarettes in
7 order to assist the Department in any investigation regarding
8 such cigarettes. ~~If no complaint for review, as provided in~~
9 ~~Section 8 of this Act, has been filed within the time required~~
10 ~~by the Administrative Review Law, and if no stay order has been~~
11 ~~entered thereunder, the Department shall proceed to sell the~~
12 ~~property for the best price obtainable and shall forthwith pay~~
13 ~~over the proceeds of such sale to the State Treasurer. If the~~
14 ~~value of such property to be sold at any one time is \$500 or~~
15 ~~more, however, such property shall be sold only to the highest~~
16 ~~and best bidder on such terms and conditions and on open~~
17 ~~competitive bidding after public advertisement, in such manner~~
18 ~~and for such terms as the Department, by rule, may prescribe.~~

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

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

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

2 (35 ILCS 130/9c rep.)

3 (35 ILCS 130/28 rep.)

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

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

9 (720 ILCS 678/2 new)

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

11 "Clear and conspicuous statement" means the statement is of
12 sufficient type size to be clearly readable by the recipient of
13 the communication.

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

16 "Delivery sale" means any sale of cigarettes to a consumer
17 if:

18 (a) the consumer submits the order for such sale by
19 means of a telephone or other method of voice transmission,
20 the mails, or the Internet or other online service, or the
21 seller is otherwise not in the physical presence of the
22 buyer when the request for purchase or order is made; or

23 (b) the cigarettes are delivered by use of a common

1 carrier, private delivery service, or the mails, or the
2 seller is not in the physical presence of the buyer when
3 the buyer obtains possession of the cigarettes.

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

7 "Department" means the Department of Revenue.

8 "Government-issued identification" means a State driver's
9 license, State identification card, passport, a military
10 identification or an official naturalization or immigration
11 document, such as an alien registration recipient card
12 (commonly known as a "green card") or an immigrant visa.

13 "Legal minimum age" means the minimum age at which an
14 individual may legally purchase cigarettes within this State,
15 as determined by either State or local government.

16 "Mails" or "mailing" mean the shipment of cigarettes
17 through the United States Postal Service.

18 "Out-of-state sale" means a sale of cigarettes to a
19 consumer located outside of this State where the consumer
20 submits the order for such sale by means of a telephonic or
21 other method of voice transmission, the mails or any other
22 delivery service, facsimile transmission, or the Internet or
23 other online service and where the cigarettes are delivered by
24 use of the mails or other delivery service.

25 "Person" means any individual, corporation, partnership,
26 limited liability company, association, or other organization

1 that engages in any for profit or not-for-profit activities.

2 "Shipping package" means a container in which packs or
3 cartons of cigarettes are shipped in connection with a delivery
4 sale.

5 "Shipping documents" means bills of lading, air bills, or
6 any other documents used to evidence the undertaking by a
7 delivery service to deliver letters, packages, or other
8 containers.

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

12 (720 ILCS 678/5)

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

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

17 (1) is licensed as a distributor under either the
18 Cigarette Tax Act, or the Cigarette Use Tax Act; or
19 delivers the cigarettes to a distributor licensed under
20 either the Cigarette Tax Act or the Cigarette Use Tax Act;
21 or

22 (2) ships them to an export warehouse proprietor
23 pursuant to Chapter 52 of the Internal Revenue Code, or an
24 operator of a customs bonded warehouse pursuant to Section
25 1311 or 1555 of Title 19 of the United States Code.

1 For purposes of this subsection (a), a person is a licensed
2 distributor if the person's name appears on a list of licensed
3 distributors published by the Illinois Department of Revenue.
4 The term cigarette has the same meaning as defined in Section 1
5 of the Cigarette Tax Act and Section 1 of the Cigarette Use Tax
6 Act. Nothing in this Act prohibits a person licensed as a
7 distributor under the Cigarette Tax Act or the Cigarette Use
8 Tax Act from shipping or causing to be shipped any cigarettes
9 to a registered retailer under the Retailers' Occupation Tax
10 Act and the Cigarette Tax Act provided the cigarette tax or
11 cigarette use tax has been paid.

12 (b) A common or contract carrier may transport cigarettes
13 to any individual person in this State only if the carrier
14 reasonably believes such cigarettes have been received from a
15 person described in paragraph (a)(1). Common or contract
16 carriers may make deliveries of cigarettes to licensed
17 distributors described in paragraph (a)(1) of this Section.
18 Nothing in this subsection (b) shall be construed to prohibit a
19 person other than a common or contract carrier from
20 transporting not more than 1,000 cigarettes at any one time to
21 any person in this State.

22 (c) A common or contract carrier may not complete the
23 delivery of any cigarettes to persons other than those
24 described in paragraph (a)(1) of this Section without first
25 obtaining from the purchaser an official written
26 identification from any state or federal agency that displays

1 the person's date of birth or a birth certificate that includes
2 a reliable confirmation that the purchaser is at least 18 years
3 of age; that the cigarettes purchased are not intended for
4 consumption by an individual who is younger than 18 years of
5 age; and a written statement signed by the purchaser that
6 certifies the purchaser's address and that the purchaser is at
7 least 18 years of age. The statement shall also confirm: (1)
8 that the purchaser understands that signing another person's
9 name to the certification is illegal; (2) that the sale of
10 cigarettes to individuals under 18 years of age is illegal; and
11 (3) that the purchase of cigarettes by individuals under 18
12 years of age is illegal under the laws of Illinois.

13 (d) When a person engaged in the business of selling
14 cigarettes ships or causes to be shipped any cigarettes to any
15 person in this State, other than in the cigarette
16 manufacturer's or tobacco products manufacturer's original
17 container or wrapping, the container or wrapping must be
18 plainly and visibly marked with the word "cigarettes".

19 (e) When a peace officer of this State or any duly
20 authorized officer or employee of the Illinois Department of
21 Public Health or Department of Revenue discovers any cigarettes
22 which have been or which are being shipped or transported in
23 violation of this Section, he or she shall seize and take
24 possession of the cigarettes, and the cigarettes shall be
25 subject to a forfeiture action pursuant to the procedures
26 provided under the Cigarette Tax Act or Cigarette Use Tax Act.

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

2 (720 ILCS 678/6 new)

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

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

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

13 (720 ILCS 678/7 new)

14 Sec. 7. Age verification and shipping requirements to
15 prevent delivery sales to minors.

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

19 (1) prior to the first delivery sale to the prospective
20 consumer, obtains from the prospective consumer a written
21 certification which includes a statement signed by the
22 prospective consumer that certifies:

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

24 and

1 (B) that the prospective consumer is at least the
2 legal minimum age;

3 (2) informs, in writing, such prospective consumer
4 that:

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

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

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

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

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

19 (A) comparing the date of birth against a
20 commercially available database or

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

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

26 (5) receives payment for the delivery sale from the

1 prospective consumer by a credit or debit card that has
2 been issued in such consumer's name, or by a check or other
3 written instrument in such consumer's name; and

4 (6) ensures that the shipping package is delivered to
5 the same address as is shown on the government-issued
6 identification or contained in the commercially available
7 database.

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

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

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

14 (3) a statement that cigarette sales are subject to tax
15 under Section 2 of the Cigarette Tax Act (35 ILCS 130/2)
16 and an explanation of how such tax has been, or is to be,
17 paid with respect to such delivery sale.

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

19 (1) the statement is clear and conspicuous;

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

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

23 (4) the statement is printed with a degree of color
24 contrast between the background and the printed statement
25 that is no less than the color contrast between the
26 background and the largest text used in the communication;

1 and

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

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

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

13 (2) use a method of mailing, shipping, or delivery that
14 requires a signature before the shipping package is
15 released to the consumer; and

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

18 (720 ILCS 678/8 new)

19 Sec. 8. Registration and reporting requirements to prevent
20 delivery sales to minors.

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

24 (1) a statement setting forth such person's name, trade
25 name, and the address of such person's principal place of

1 business and any other place of business; and

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

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

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

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

12 (D) an indication of whether or not the cigarettes
13 sold in the delivery sale bore a tax stamp evidencing
14 payment of the tax under Section 2 of the Cigarette Tax
15 Act (35 ILCS 130/2).

16 (b) Each person engaged in business within this State who
17 makes an out-of-state sale shall, for each individual sale,
18 submit to the appropriate tax official of the state in which
19 the consumer is located the information required in subsection
20 (a).

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

24 (d) The Department is authorized to disclose to the
25 Attorney General any information received under this title and
26 requested by the Attorney General. The Department and the

1 Attorney General shall share with each other the information
2 received under this title and may share the information with
3 other federal, State, or local agencies for purposes of
4 enforcement of this title or the laws of the Federal government
5 or of other States.

6 (e) This Section shall not be construed to impose liability
7 upon any delivery service, or officers or employees thereof,
8 when acting within the scope of business of the delivery
9 service.

10 (720 ILCS 678/9 new)

11 Sec. 9. Statements for delivery sales.

12 (a) Each person who makes a delivery sale shall collect and
13 remit to the Department all excise taxes imposed by this State
14 with respect to such delivery sale and maintain evidence of
15 such payment unless the person is located outside the State and
16 includes a statement on the outside of the shipping package
17 stating: "Illinois law requires the payment of state taxes on
18 this shipment of cigarettes. You are legally responsible for
19 all applicable unpaid state taxes on these cigarettes."

20 (b) A statement meets the requirements of subsection (a) if
21 the statement is:

22 (1) clear and conspicuous;

23 (2) contained in a printed box set apart from the
24 shipping label and other markings contained on the shipping
25 package;

1 (3) printed in bold, capital letters;

2 (4) printed with a degree of color contrast between the
3 background and the printed statement that is no less than
4 the color contrast between the background and the largest
5 text used on the shipping label; and

6 (5) located on the same side of the shipping package as
7 the shipping label.

8 (720 ILCS 678/10)

9 Sec. 10. Violation.

10 (a) A person who violates subsection (a), (b), or (c) of
11 Section 5 or Section, 6, 7, 8, or 9 is guilty of a Class A
12 misdemeanor. A second or subsequent violation of subsection
13 (a), (b), or (c) of Section 5 or Section, 6, 7, 8, or 9 is a
14 Class 4 felony.

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

23 (c) All cigarettes sold or attempted to be sold in a
24 delivery sale that does not meet the requirements of this Act
25 shall be forfeited to the State. All cigarettes forfeited to

1 this State under this Act shall be destroyed. The Department
2 may, prior to any destruction of cigarettes, permit the true
3 holder of the trademark rights in the cigarette brand to
4 inspect such contraband cigarettes, in order to assist the
5 Department in any investigation regarding such cigarettes.

6 (d) ~~(e)~~ Any person aggrieved by any decision of the
7 Department of Revenue may, within 60 days after notice of that
8 decision, protest in writing and request a hearing. The
9 Department of Revenue shall give notice to the person of the
10 time and place for the hearing and shall hold a hearing before
11 it issues a final administrative decision. Absent a written
12 protest within 60 days, the Department's decision shall become
13 final without any further determination made or notice given.

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

15 (720 ILCS 678/20 new)

16 Sec. 20. Tip line.

17 (a) Not later than 120 days after the effective date of
18 this amendatory Act of the 95th General Assembly, the
19 Department shall establish, publicize, and maintain a
20 toll-free telephone number to receive information related to
21 violations of this Act.

22 (b) The Attorney General may pay a reward of up to \$5,000
23 to any person who furnishes information leading to the
24 Department's collection of excise taxes imposed upon delivery
25 sales which otherwise would not have been collected but for the

1 information provided by the person.

2 (720 ILCS 678/25 new)

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

6 (720 ILCS 678/30 new)

7 Sec. 30. Severability. If any provision of this Act is for
8 any reason held to be unconstitutional or invalid, such holding
9 shall not affect the constitutionality or validity of the
10 remaining provisions of this Act, and to this end the
11 provisions of this Act are expressly declared to be severable.

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.

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