

1 AN ACT concerning revenue.

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 Section 1 as follows:

6 (35 ILCS 130/1) (from Ch. 120, par. 453.1)

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

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

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

20 "Prior Continuous Compliance Taxpayer" means any person
21 who is licensed under this Act and who, having been a licensee
22 for a continuous period of 5 years, is determined by the
23 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

1 include, ~~except~~ 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 (Source: P.A. 88-480.)

21 Section 10. The Cigarette Use Tax Act is amended by
22 changing Section 1 as follows:

23 (35 ILCS 135/1) (from Ch. 120, par. 453.31)

24 Sec. 1. For the purpose of this Act, unless otherwise

1 required by the context:

2 "Use" means the exercise by any person of any right or
3 power over cigarettes incident to the ownership or possession
4 thereof, other than the making of a sale thereof in the course
5 of engaging in a business of selling cigarettes and shall
6 include the keeping or retention of cigarettes for use.

7 "Cigarette" means any roll for smoking made wholly or in
8 part of tobacco irrespective of size or shape and whether or
9 not such tobacco is flavored, adulterated or mixed with any
10 other ingredient, and the wrapper or cover of which is made of
11 paper or any other substance or material except tobacco.

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

18 "Department" means the Department of Revenue.

19 "Sale" means any transfer, exchange or barter in any manner
20 or by any means whatsoever for a consideration, and includes
21 and means all sales made by any person.

22 "Original Package" means the individual packet, box or
23 other container whatsoever used to contain and to convey
24 cigarettes to the consumer.

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

26 a. Any person engaged in the business of selling

1 cigarettes in this State who brings or causes to be brought
2 into this State from without this State any original
3 packages of cigarettes, on which original packages there is
4 no authorized evidence underneath a sealed transparent
5 wrapper showing that the tax liability imposed by this Act
6 has been paid or assumed by the out-of-State seller of such
7 cigarettes, for sale in the course of such business.

8 b. Any person who makes, manufactures or fabricates
9 cigarettes in this State for sale, except a person who
10 makes, manufactures or fabricates cigarettes for sale to
11 residents incarcerated in penal institutions or resident
12 patients or a State-operated mental health facility.

13 c. Any person who makes, manufactures or fabricates
14 cigarettes outside this State, which cigarettes are placed
15 in original packages contained in sealed transparent
16 wrappers, for delivery or shipment into this State, and who
17 elects to qualify and is accepted by the Department as a
18 distributor under Section 7 of this Act.

19 "Distributor" does not include any person who transfers
20 cigarettes to a not-for-profit research institution that
21 conducts tests concerning the health effects of tobacco
22 products and who does not offer the cigarettes for resale.

23 "Distributor maintaining a place of business in this
24 State", or any like term, means any distributor having or
25 maintaining within this State, directly or by a subsidiary, an
26 office, distribution house, sales house, warehouse or other

1 place of business, or any agent operating within this State
2 under the authority of the distributor or its subsidiary,
3 irrespective of whether such place of business or agent is
4 located here permanently or temporarily, or whether such
5 distributor or subsidiary is licensed to transact business
6 within this State.

7 "Business" means any trade, occupation, activity or
8 enterprise engaged in or conducted in this State for the
9 purpose of selling cigarettes.

10 "Prior Continuous Compliance Taxpayer" means any person
11 who is licensed under this Act and who, having been a licensee
12 for a continuous period of 5 years, is determined by the
13 Department not to have been either delinquent or deficient in
14 the payment of tax liability during that period or otherwise in
15 violation of this Act. Also, any taxpayer who has, as verified
16 by the Department, continuously complied with the condition of
17 his bond or other security under provisions of this Act of a
18 period of 5 consecutive years shall be considered to be a
19 "prior continuous compliance taxpayer". In calculating the
20 consecutive period of time described herein for qualification
21 as a "prior continuous compliance taxpayer", a consecutive
22 period of time of qualifying compliance immediately prior to
23 the effective date of this amendatory Act of 1987 shall be
24 credited to any licensee who became licensed on or before the
25 effective date of this amendatory Act of 1987.

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

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