



Rep. Karen A. Yarbrough

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1 AMENDMENT TO SENATE BILL 44

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 44 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The State Finance Act is amended by adding  
5 Sections 5.756, 5.757, 6-82, and 6z-83 as follows:

6 (30 ILCS 105/5.756 new)

7 Sec. 5.756. The Healthcare Provider Relief Fund.

8 (30 ILCS 105/5.757 new)

9 Sec. 5.757. The Public Health Chronic Disease Prevention  
10 Fund.

11 (30 ILCS 105/6-82 new)

12 Sec. 6-82. The Healthcare Provider Relief Fund. The  
13 Healthcare Provider Relief Fund is created as a special fund in  
14 the State treasury. Moneys in the Fund may be used, subject to

1 appropriation, by Department of Healthcare and Family Services  
2 only for the purpose of making reimbursements to providers of  
3 goods or services under the medical assistance program under  
4 Article V of the Illinois Public Aid Code, the Children's  
5 Health Insurance Program Act, the Covering All Kids Health  
6 Insurance Act, and the pharmaceutical assistance program under  
7 the Senior Citizens and Disabled Persons Property Tax Relief  
8 and Pharmaceutical Assistance Act. The Department shall make  
9 all such reimbursements from the Fund in the order that claims  
10 for those reimbursements were received by the Department.

11 Any interest earnings that are attributable to moneys in  
12 the Fund must be deposited into the Fund.

13 The Healthcare Provider Relief Fund is not subject to  
14 sweeps, administrative charges, or charge-backs, including but  
15 not limited to, those authorized under Section 8h of the State  
16 Finance Act, or any other fiscal or budgetary maneuver that  
17 would in any way transfer any funds from the Healthcare  
18 Provider Relief Fund into any other fund of the State.

19 (30 ILCS 105/6z-83 new)

20 Sec. 6z-83. The Public Health Chronic Disease Prevention  
21 Fund. The Public Health Chronic Disease Prevention Fund is  
22 created as a special fund in the State treasury. Moneys in the  
23 Fund shall be used, subject to appropriation, by the Department  
24 of Public Health only for the purpose of making grants to  
25 State-certified local public health departments for purposes

1 related to tobacco prevention and cessation and other chronic  
2 disease prevention programs.

3 Section 10. The Cigarette Tax Act is amended by changing  
4 Sections 1 and 2 as follows:

5 (35 ILCS 130/1) (from Ch. 120, par. 453.1)

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

7 "Brand Style" means a variety of cigarettes distinguished  
8 by the tobacco used, tar and nicotine content, flavoring used,  
9 size of the cigarette, filtration on the cigarette or  
10 packaging.

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

16 "Cigarette" when used in this Act, shall also be construed  
17 to mean: any roll for smoking made wholly or in part of tobacco  
18 labeled as anything other than a cigarette or not bearing a  
19 label, if it meets 2 or more of the following criteria:

20 (a) the product is sold in packs similar to cigarettes;

21 (b) the product is available for sale in cartons of 10  
22 packs;

23 (c) the product is sold in soft packs, hard packs, flip-top  
24 boxes, clam shells, or other cigarette-type boxes;

1       (d) the product is of a length and diameter found in  
2 commercially-manufactured cigarettes;

3       (e) the product has a cellulose acetate or other integrated  
4 filter;

5       (f) the product weighs less than 3 pounds per thousand  
6 sticks;

7       (g) the product is marketed or advertised to consumers as a  
8 cigarette or cigarette substitute; or

9       (h) there is other evidence that the product fits within  
10 the definition of cigarette.

11       "Contraband cigarettes" means:

12           (a) cigarettes that do not bear a required tax stamp  
13 under this Act;

14           (b) cigarettes for which any required federal taxes  
15 have not been paid;

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

17           (d) cigarettes that are manufactured, fabricated,  
18 assembled, processed, packaged, or labeled by any person  
19 other than (i) the owner of the trademark rights in the  
20 cigarette brand or (ii) a person that is directly or  
21 indirectly authorized by such owner;

22           (e) cigarettes imported into the United States, or  
23 otherwise distributed, in violation of the federal  
24 Imported Cigarette Compliance Act of 2000 (Title IV of  
25 Public Law 106-476);

26           (f) cigarettes that have false manufacturing labels;

1 (g) cigarettes identified in Section 3-10(a)(1) of  
2 this Act; or

3 (h) cigarettes that are improperly tax stamped,  
4 including cigarettes that bear a tax stamp of another state  
5 or taxing jurisdiction.

6 "Person" means any natural individual, firm, partnership,  
7 association, joint stock company, joint adventure, public or  
8 private corporation, however formed, limited liability  
9 company, or a receiver, executor, administrator, trustee,  
10 guardian or other representative appointed by order of any  
11 court.

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

1 effective date of this amendatory Act of 1987.

2 "Department" means the Department of Revenue.

3 "Sale" means any transfer, exchange or barter in any manner  
4 or by any means whatsoever for a consideration, and includes  
5 and means all sales made by any person.

6 "Original Package" means the individual packet, box or  
7 other container whatsoever used to contain and to convey  
8 cigarettes to the consumer.

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

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

18 (2) Any person who makes, manufactures or fabricates  
19 cigarettes in this State for sale in this State, except a  
20 person who makes, manufactures or fabricates cigarettes as a  
21 part of a correctional industries program for sale to residents  
22 incarcerated in penal institutions or resident patients of a  
23 State-operated mental health facility.

24 (3) Any person who makes, manufactures or fabricates  
25 cigarettes outside this State, which cigarettes are placed in  
26 original packages contained in sealed transparent wrappers,

1 for delivery or shipment into this State, and who elects to  
2 qualify and is accepted by the Department as a distributor  
3 under Section 4b of this Act.

4 "Place of business" shall mean and include any place where  
5 cigarettes are sold or where cigarettes are manufactured,  
6 stored or kept for the purpose of sale or consumption,  
7 including any vessel, vehicle, airplane, train or vending  
8 machine.

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

12 "Retailer" means any person who engages in the making of  
13 transfers of the ownership of, or title to, cigarettes to a  
14 purchaser for use or consumption and not for resale in any  
15 form, for a valuable consideration. "Retailer" does not include  
16 a person:

17 (1) who transfers to residents incarcerated in penal  
18 institutions or resident patients of a State-operated  
19 mental health facility ownership of cigarettes made,  
20 manufactured, or fabricated as part of a correctional  
21 industries program; or

22 (2) who transfers cigarettes to a not-for-profit  
23 research institution that conducts tests concerning the  
24 health effects of tobacco products and who does not offer  
25 the cigarettes for resale.

26 "Retailer" shall be construed to include any person who

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

9 "Stamp" or "stamps" mean the indicia required to be affixed  
10 on a pack of cigarettes that evidence payment of the tax on  
11 cigarettes under Section 2 of this Act.

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

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

15 (b) is legally recognized as a partner in business.

16 (Source: P.A. 95-462, eff. 8-27-07; 95-1053, eff. 1-1-10;  
17 96-782, eff. 1-1-10.)

18 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

19 Sec. 2. Tax imposed; rate; collection, payment, and  
20 distribution; discount.

21 (a) A tax is imposed upon any person engaged in business as  
22 a retailer of cigarettes in this State at the rate of 5 1/2  
23 mills per cigarette sold, or otherwise disposed of in the  
24 course of such business in this State. In addition to any other  
25 tax imposed by this Act, a tax is imposed upon any person



1 engaged in business as a retailer of cigarettes in this State  
2 at a rate of 1/2 mill per cigarette sold or otherwise disposed  
3 of in the course of such business in this State on and after  
4 January 1, 1947, and shall be paid into the Metropolitan Fair  
5 and Exposition Authority Reconstruction Fund or as otherwise  
6 provided in Section 29. On and after December 1, 1985, in  
7 addition to any other tax imposed by this Act, a tax is imposed  
8 upon any person engaged in business as a retailer of cigarettes  
9 in this State at a rate of 4 mills per cigarette sold or  
10 otherwise disposed of in the course of such business in this  
11 State. Of the additional tax imposed by this amendatory Act of  
12 1985, \$9,000,000 of the moneys received by the Department of  
13 Revenue pursuant to this Act shall be paid each month into the  
14 Common School Fund. On and after the effective date of this  
15 amendatory Act of 1989, in addition to any other tax imposed by  
16 this Act, a tax is imposed upon any person engaged in business  
17 as a retailer of cigarettes at the rate of 5 mills per  
18 cigarette sold or otherwise disposed of in the course of such  
19 business in this State. On and after the effective date of this  
20 amendatory Act of 1993, in addition to any other tax imposed by  
21 this Act, a tax is imposed upon any person engaged in business  
22 as a retailer of cigarettes at the rate of 7 mills per  
23 cigarette sold or otherwise disposed of in the course of such  
24 business in this State. On and after December 15, 1997, in  
25 addition to any other tax imposed by this Act, a tax is imposed  
26 upon any person engaged in business as a retailer of cigarettes

1 at the rate of 7 mills per cigarette sold or otherwise disposed  
2 of in the course of such business of this State. All of the  
3 moneys received by the Department of Revenue pursuant to this  
4 Act and the Cigarette Use Tax Act from the additional taxes  
5 imposed by this amendatory Act of 1997, shall be paid each  
6 month into the Common School Fund. On and after July 1, 2002,  
7 in addition to any other tax imposed by this Act, a tax is  
8 imposed upon any person engaged in business as a retailer of  
9 cigarettes at the rate of 20.0 mills per cigarette sold or  
10 otherwise disposed of in the course of such business in this  
11 State. Beginning on September 1, 2010, in addition to any other  
12 tax imposed by this Act, a tax is imposed upon any person  
13 engaged in business as a retailer of cigarettes at the rate of  
14 25 mills per cigarette sold or otherwise disposed of in the  
15 course of such business in this State. Beginning on September  
16 1, 2011, in addition to any other tax imposed by this Act, a  
17 tax is imposed upon any person engaged in business as a  
18 retailer of cigarettes at the rate of 12.5 mills per cigarette  
19 sold or otherwise disposed of in the course of such business in  
20 this State. Beginning on September 1, 2012, in addition to any  
21 other tax imposed by this Act, a tax is imposed upon any person  
22 engaged in business as a retailer of cigarettes at the rate of  
23 12.5 mills per cigarette sold or otherwise disposed of in the  
24 course of such business in this State. Of the moneys received  
25 by the Department of Revenue under this Act and the Cigarette  
26 Use Tax Act from the additional taxes imposed by this

1 amendatory Act of the 96th General Assembly: (i) \$54,167 must  
2 be paid each month into the Tax Compliance and Administration  
3 Fund for the purpose of cigarette and tobacco related  
4 enforcement, retail inspections, and prevention of internet  
5 and interstate trafficking of contraband cigarettes, (ii)  
6 \$2,500,000 must be paid each month into the Public Health  
7 Chronic Disease Prevention Fund, and (iii) the balance must be  
8 paid each month into the Healthcare Provider Relief Fund. The  
9 payment of such taxes shall be evidenced by a stamp affixed to  
10 each original package of cigarettes, or an authorized  
11 substitute for such stamp imprinted on each original package of  
12 such cigarettes underneath the sealed transparent outside  
13 wrapper of such original package, as hereinafter provided.  
14 However, such taxes are not imposed upon any activity in such  
15 business in interstate commerce or otherwise, which activity  
16 may not under the Constitution and statutes of the United  
17 States be made the subject of taxation by this State.

18 Beginning on the effective date of this amendatory Act of  
19 the 92nd General Assembly and through June 30, 2006, all of the  
20 moneys received by the Department of Revenue pursuant to this  
21 Act and the Cigarette Use Tax Act, other than the moneys that  
22 are dedicated to the Common School Fund, shall be distributed  
23 each month as follows: first, there shall be paid into the  
24 General Revenue Fund an amount which, when added to the amount  
25 paid into the Common School Fund for that month, equals  
26 \$33,300,000, except that in the month of August of 2004, this

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

24 Beginning on July 1, 2006, all of the moneys received by  
25 the Department of Revenue pursuant to this Act and the  
26 Cigarette Use Tax Act, other than the moneys that are dedicated

1 to the Common School Fund and, beginning on the effective date  
2 of this amendatory Act of the 96th General Assembly, other than  
3 the moneys from the additional taxes imposed by this amendatory  
4 Act of the 96th General Assembly that must be paid each month  
5 into the Tax Compliance and Administration Fund, the Public  
6 Health Chronic Disease Prevention Fund, and the Healthcare  
7 Provider Relief Fund, shall be distributed each month as  
8 follows: first, there shall be paid into the General Revenue  
9 Fund an amount that, when added to the amount paid into the  
10 Common School Fund for that month, equals \$29,200,000; then,  
11 from the moneys remaining, if any amounts required to be paid  
12 into the General Revenue Fund in previous months remain unpaid,  
13 those amounts shall be paid into the General Revenue Fund; then  
14 from the moneys remaining, \$5,000,000 per month shall be paid  
15 into the School Infrastructure Fund; then, if any amounts  
16 required to be paid into the School Infrastructure Fund in  
17 previous months remain unpaid, those amounts shall be paid into  
18 the School Infrastructure Fund; then the moneys remaining, if  
19 any, shall be paid into the Long-Term Care Provider Fund.

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

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

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

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

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

8 Any distributor having cigarettes to which stamps have been  
9 affixed in his or her possession for sale on July 1, 2002 shall  
10 not be required to pay the additional tax imposed by this  
11 amendatory Act of the 92nd General Assembly on those stamped  
12 cigarettes. Any retailer having cigarettes in his or her  
13 possession on September 1, 2010 to which tax stamps have been  
14 affixed is not required to pay the additional tax that begins  
15 on September 1, 2010 imposed by an amendatory Act of the 96th  
16 General Assembly on those stamped cigarettes. Any distributor  
17 having cigarettes in his or her possession on September 1, 2010  
18 to which tax stamps have been affixed is required to pay the  
19 additional tax that begins on September 1, 2010 imposed by an  
20 amendatory Act of the 96th General Assembly to the extent the  
21 calendar year 2010 average monthly volume of cigarette stamps  
22 in the distributor's possession exceeds the average monthly  
23 volume of cigarette stamps purchased by the distributor in  
24 calendar year 2009. This payment, less the discount provided in  
25 subsection (b), is due when the distributor first makes a  
26 purchase of cigarette stamps on or after September 1, 2010 or

1 on the first due date of a return under this Act occurring on  
2 or after September 1, 2010, whichever occurs first.

3 Any retailer having cigarettes in his or her possession on  
4 September 1, 2011 to which tax stamps have been affixed is not  
5 required to pay the additional tax that begins on September 1,  
6 2011 imposed by an amendatory Act of the 96th General Assembly  
7 on those stamped cigarettes. Any distributor having cigarettes  
8 in his or her possession on September 1, 2011 to which tax  
9 stamps have been affixed is required to pay the additional tax  
10 that begins on September 1, 2011 imposed by an amendatory Act  
11 of the 96th General Assembly to the extent the calendar year  
12 2011 average monthly volume of cigarette stamps in the  
13 distributor's possession exceeds the average monthly volume of  
14 cigarette stamps purchased by the distributor in calendar year  
15 2010. This payment, less the discount provided in subsection  
16 (b), is due when the distributor first makes a purchase of  
17 cigarette stamps on or after September 1, 2011 or on the first  
18 due date of a return under this Act occurring on or after  
19 September 1, 2011, whichever occurs first.

20 Any retailer having cigarettes in his or her possession on  
21 September 1, 2012 to which tax stamps have been affixed is not  
22 required to pay the additional tax that begins of September 1,  
23 2012 imposed by an amendatory Act of the 96th General Assembly  
24 on those stamped cigarettes. Any distributor having cigarettes  
25 in his or her possession on September 1, 2012 to which tax  
26 stamps have been affixed is required to pay the additional tax



1 that begins on September 1, 2012 imposed by an amendatory Act  
2 of the 96th General Assembly to the extent the calendar year  
3 2012 average monthly volume of cigarette stamps in the  
4 distributor's possession exceeds the average monthly volume of  
5 cigarette stamps purchased by the distributor in calendar year  
6 2011. This payment, less the discount provided in subsection  
7 (b), is due when the distributor first makes a purchase of  
8 cigarette stamps on or after September 1, 2012 or on the first  
9 due date of a return under this Act occurring on or after  
10 September 1, 2012, whichever occurs first.

11 The amount of the Cigarette Tax imposed by this Act shall  
12 be separately stated, apart from the price of the goods, by  
13 both distributors and retailers, in all advertisements, bills  
14 and sales invoices.

15 (b) The distributor shall be required to collect the taxes  
16 provided under paragraph (a) hereof, and, to cover the costs of  
17 such collection, shall be allowed a discount during any year  
18 commencing July 1st and ending the following June 30th in  
19 accordance with the schedule set out hereinbelow, which  
20 discount shall be allowed at the time of purchase of the stamps  
21 when purchase is required by this Act, or at the time when the  
22 tax is remitted to the Department without the purchase of  
23 stamps from the Department when that method of paying the tax  
24 is required or authorized by this Act. Prior to December 1,  
25 1985, a discount equal to  $1\frac{2}{3}\%$  of the amount of the tax up to  
26 and including the first \$700,000 paid hereunder by such

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

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

18 (c) The taxes herein imposed are in addition to all other  
19 occupation or privilege taxes imposed by the State of Illinois,  
20 or by any political subdivision thereof, or by any municipal  
21 corporation.

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

24 Section 15. The Cigarette Use Tax Act is amended by  
25 changing Sections 1, 2, and 12 as follows:

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

2 Sec. 1. For the purpose of this Act, unless otherwise  
3 required by the context:

4 "Use" means the exercise by any person of any right or  
5 power over cigarettes incident to the ownership or possession  
6 thereof, other than the making of a sale thereof in the course  
7 of engaging in a business of selling cigarettes and shall  
8 include the keeping or retention of cigarettes for use, except  
9 that "use" does not include the use of cigarettes by a  
10 not-for-profit research institution conducting tests  
11 concerning the health effects of tobacco products, provided the  
12 cigarettes are not offered for resale.

13 "Brand Style" means a variety of cigarettes distinguished  
14 by the tobacco used, tar and nicotine content, flavoring used,  
15 size of the cigarette, filtration on the cigarette or  
16 packaging.

17 "Cigarette" means any roll for smoking made wholly or in  
18 part of tobacco irrespective of size or shape and whether or  
19 not such tobacco is flavored, adulterated or mixed with any  
20 other ingredient, and the wrapper or cover of which is made of  
21 paper ~~or any other substance or material except tobacco.~~

22 "Cigarette" when used in this Act, shall also be construed  
23 to mean: any roll for smoking made wholly or in part of tobacco  
24 labeled as anything other than a cigarette or not bearing a  
25 label, if it meets 2 or more of the following criteria:

1       (a) the product is sold in packs similar to cigarettes;

2       (b) the product is available for sale in cartons of 10  
3 packs;

4       (c) the product is sold in soft packs, hard packs, flip-top  
5 boxes, clam shells, or other cigarette-type boxes;

6       (d) the product is of a length and diameter found in  
7 commercially-manufactured cigarettes;

8       (e) the product has a cellulose acetate or other integrated  
9 filter;

10       (f) the product weighs less than 3 pounds per thousand  
11 sticks;

12       (g) the product is marketed or advertised to consumers as a  
13 cigarette or cigarette substitute; or

14       (h) there is other evidence that the product fits within  
15 the definition of cigarette.

16       "Contraband cigarettes" means:

17           (a) cigarettes that do not bear a required tax stamp  
18 under this Act;

19           (b) cigarettes for which any required federal taxes  
20 have not been paid;

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

22           (d) cigarettes that are manufactured, fabricated,  
23 assembled, processed, packaged, or labeled by any person  
24 other than (i) the owner of the trademark rights in the  
25 cigarette brand or (ii) a person that is directly or  
26 indirectly authorized by such owner;

1 (e) cigarettes imported into the United States, or  
2 otherwise distributed, in violation of the federal  
3 Imported Cigarette Compliance Act of 2000 (Title IV of  
4 Public Law 106-476);

5 (f) cigarettes that have false manufacturing labels;

6 (g) cigarettes identified in Section 3-10(a)(1) of  
7 this Act; or

8 (h) cigarettes that are improperly tax stamped,  
9 including cigarettes that bear a tax stamp of another state  
10 or taxing jurisdiction.

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 "Department" means the Department of Revenue.

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

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

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

25 a. Any person engaged in the business of selling  
26 cigarettes in this State who brings or causes to be brought

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

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

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

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

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

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

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

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

25 "Stamp" or "stamps" mean the indicia required to be affixed  
26 on a pack of cigarettes that evidence payment of the tax on

1 cigarettes under Section 2 of this Act.

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

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

5 (b) is legally recognized as a partner in business.

6 (Source: P.A. 95-462, eff. 8-27-07; 95-1053, eff. 1-1-10;  
7 96-782, eff. 1-1-10.)

8 (35 ILCS 135/2) (from Ch. 120, par. 453.32)

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



1 any other tax imposed by this Act, a tax is imposed upon the  
2 privilege of using cigarettes in this State at a rate of 20.0  
3 mills per cigarette so used. Beginning on September 1, 2010, in  
4 addition to any other tax imposed by this Act, a tax is imposed  
5 upon the privilege of using cigarettes in this State at a rate  
6 of 25 mills per cigarette so used. Beginning on September 1,  
7 2011, in addition to any other tax imposed by this Act, a tax  
8 is imposed upon the privilege of using cigarettes in this State  
9 at the rate of 12.5 mills per cigarette so used. Beginning on  
10 September 1, 2012, in addition to any other tax imposed by this  
11 Act, a tax is imposed upon the privilege of using cigarettes in  
12 this State at the rate of 12.5 mills per cigarette so used. The  
13 taxes herein imposed shall be in addition to all other  
14 occupation or privilege taxes imposed by the State of Illinois  
15 or by any political subdivision thereof or by any municipal  
16 corporation.

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

26 When the word "tax" is used in this Act, it shall include

1 any tax or tax rate imposed by this Act and shall mean the  
2 singular of "tax" or the plural "taxes" as the context may  
3 require.

4 Any distributor having cigarettes to which stamps have been  
5 affixed in his possession for sale on the effective date of  
6 this amendatory Act of 1989 shall not be required to pay the  
7 additional tax imposed by this amendatory Act of 1989 on such  
8 stamped cigarettes. Any distributor having cigarettes to which  
9 stamps have been affixed in his or her possession for sale at  
10 12:01 a.m. on the effective date of this amendatory Act of  
11 1993, is required to pay the additional tax imposed by this  
12 amendatory Act of 1993 on such stamped cigarettes. This payment  
13 shall be due when the distributor first makes a purchase of  
14 cigarette tax stamps after the effective date of this  
15 amendatory Act of 1993, or on the first due date of a return  
16 under this Act after the effective date of this amendatory Act  
17 of 1993, whichever occurs first. Once a distributor tenders  
18 payment of the additional tax to the Department, the  
19 distributor may purchase stamps from the Department. Any  
20 distributor having cigarettes to which stamps have been affixed  
21 in his possession for sale on December 15, 1997 shall not be  
22 required to pay the additional tax imposed by this amendatory  
23 Act of 1997 on such stamped cigarettes.

24 Any distributor having cigarettes to which stamps have been  
25 affixed in his or her possession for sale on July 1, 2002 shall  
26 not be required to pay the additional tax imposed by this

1 amendatory Act of the 92nd General Assembly on those stamped  
2 cigarettes. Any retailer having cigarettes in his or her  
3 possession on September 1, 2010 to which tax stamps have been  
4 affixed is not required to pay the additional tax that begins  
5 on September 1, 2010 imposed by an amendatory Act of the 96th  
6 General Assembly on those stamped cigarettes. Any distributor  
7 having cigarettes in his or her possession on September 1, 2010  
8 to which tax stamps have been affixed is required to pay the  
9 additional tax that begins on September 1, 2010 imposed by an  
10 amendatory Act of the 96th General Assembly to the extent the  
11 calendar year 2010 average monthly volume of cigarette stamps  
12 in the distributor's possession exceeds the average monthly  
13 volume of cigarette stamps purchased by the distributor in  
14 calendar year 2009. This payment, less the discount provided in  
15 Section 3, is due when the distributor first makes a purchase  
16 of cigarette stamps on or after September 1, 2010 or on the  
17 first due date of a return under this Act occurring on or after  
18 September 1, 2010, whichever occurs first.

19 Any retailer having cigarettes in his or her possession on  
20 September 1, 2011 to which tax stamps have been affixed is not  
21 required to pay the additional tax that begins on September 1,  
22 2011 imposed by an amendatory Act of the 96th General Assembly  
23 on those stamped cigarettes. Any distributor having cigarettes  
24 in his or her possession on September 1, 2011 to which tax  
25 stamps have been affixed is required to pay the additional tax  
26 that begins on September 1, 2011 imposed by an amendatory Act

1 of the 96th General Assembly to the extent the calendar year  
2 2011 average monthly volume of cigarette stamps in the  
3 distributor's possession exceeds the average monthly volume of  
4 cigarette stamps purchased by the distributor in calendar year  
5 2010. This payment, less the discount provided in Section 3, is  
6 due when the distributor first makes a purchase of cigarette  
7 stamps on or after September 1, 2011 or on the first due date  
8 of a return under this Act occurring on or after September 1,  
9 2011, whichever occurs first.

10 Any retailer having cigarettes in his or her possession on  
11 September 1, 2012 to which tax stamps have been affixed is not  
12 required to pay the additional tax that begins of September 1,  
13 2012 imposed by an amendatory Act of the 96th General Assembly  
14 on those stamped cigarettes. Any distributor having cigarettes  
15 in his or her possession on September 1, 2012 to which tax  
16 stamps have been affixed is required to pay the additional tax  
17 that begins on September 1, 2012 imposed by an amendatory Act  
18 of the 96th General Assembly to the extent the calendar year  
19 2012 average monthly volume of cigarette stamps in the  
20 distributor's possession exceeds the average monthly volume of  
21 cigarette stamps purchased by the distributor in calendar year  
22 2011. This payment, less the discount provided in Section 3, is  
23 due when the distributor first makes a purchase of cigarette  
24 stamps on or after September 1, 2012 or on the first due date  
25 of a return under this Act occurring on or after September 1,  
26 2012, whichever occurs first.

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

2 (35 ILCS 135/12) (from Ch. 120, par. 453.42)

3 Sec. 12. Declaration of possession of cigarettes on which  
4 tax not paid.

5 (a) When cigarettes are acquired for use in this State by a  
6 person (including a distributor as well as any other person),  
7 who did not pay the tax herein imposed to a distributor, the  
8 person, within 30 days after acquiring the cigarettes, shall  
9 file with the Department a return declaring the possession of  
10 the cigarettes and shall transmit with the return to the  
11 Department the tax imposed by this Act.

12 (b) On receipt of the return and payment of the tax as  
13 required by paragraph (a), the Department may furnish the  
14 person with a suitable tax stamp to be affixed to the package  
15 of cigarettes upon which the tax has been paid if the  
16 Department determines that the cigarettes still exist.

17 (c) The return referred to in paragraph (a) shall contain  
18 the name and address of the person possessing the cigarettes  
19 involved, the location of the cigarettes and the quantity,  
20 brand name, place, and date of the acquisition of the  
21 cigarettes.

22 (d) The provisions of this Section are not subject to the  
23 Uniform Penalty and Interest Act.

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

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