



Rep. Barbara Flynn Currie

Filed: 1/10/2011

09600SB0044ham007

LRB096 03720 HLH 44934 a

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 5.786 and 6z-85 as follows:

6 (30 ILCS 105/5.786 new)

7 Sec. 5.786. The Fund for the Advancement of Education.

8 (30 ILCS 105/6z-85 new)

9 Sec. 6z-85. The Fund for the Advancement of Education;
10 creation. The Fund for the Advancement of Education is hereby
11 created as a special fund in the State treasury. All moneys
12 deposited into the fund shall be appropriated to provide
13 financial assistance for education programs. Moneys
14 appropriated from the Fund shall supplement and not supplant
15 the current level of education funding.

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

3 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

4 Sec. 2. Tax imposed; rate; collection, payment, and
5 distribution; discount.

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

1 amendatory Act of 1989, in addition to any other tax imposed by
2 this Act, a tax is imposed upon any person engaged in business
3 as a retailer of cigarettes at the rate of 5 mills per
4 cigarette sold or otherwise disposed of in the course of such
5 business in this State. On and after the effective date of this
6 amendatory Act of 1993, in addition to any other tax imposed by
7 this Act, a tax is imposed upon any person engaged in business
8 as a retailer of cigarettes at the rate of 7 mills per
9 cigarette sold or otherwise disposed of in the course of such
10 business in this State. On and after December 15, 1997, in
11 addition to any other tax imposed by this Act, a tax is imposed
12 upon any person engaged in business as a retailer of cigarettes
13 at the rate of 7 mills per cigarette sold or otherwise disposed
14 of in the course of such business of this State. All of the
15 moneys received by the Department of Revenue pursuant to this
16 Act and the Cigarette Use Tax Act from the additional taxes
17 imposed by this amendatory Act of 1997, shall be paid each
18 month into the Common School Fund. On and after July 1, 2002,
19 in addition to any other tax imposed by this Act, a tax is
20 imposed upon any person engaged in business as a retailer of
21 cigarettes at the rate of 20.0 mills per cigarette sold or
22 otherwise disposed of in the course of such business in this
23 State. Beginning on March 1, 2011, in addition to any other tax
24 imposed by this Act, a tax is imposed upon any person engaged
25 in business as a retailer of cigarettes at the rate of 50.5
26 mills per cigarette sold or otherwise disposed of in the course

1 of such business in this State. Of the moneys received by the
2 Department of Revenue under this Act and the Cigarette Use Tax
3 Act from the additional taxes imposed by this amendatory Act of
4 the 96th General Assembly (i) an amount equal to 0.5 mills per
5 cigarette sold or otherwise disposed of shall be paid each
6 month into the Long-Term Care Provider Fund and (ii) the
7 balance shall be paid each month (A) into the General Revenue
8 Fund beginning on March 1, 2011 and through June 30, 2011, and
9 (B) into the Fund for the Advancement of Education, a special
10 fund in the State treasury, beginning on July 1, 2011. The
11 payment of such taxes shall be evidenced by a stamp affixed to
12 each original package of cigarettes, or an authorized
13 substitute for such stamp imprinted on each original package of
14 such cigarettes underneath the sealed transparent outside
15 wrapper of such original package, as hereinafter provided.
16 However, such taxes are not imposed upon any activity in such
17 business in interstate commerce or otherwise, which activity
18 may not under the Constitution and statutes of the United
19 States be made the subject of taxation by this State.

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

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

26 Beginning on July 1, 2006, all of the moneys received by

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

22 When any tax imposed herein terminates or has terminated,
23 distributors who have bought stamps while such tax was in
24 effect and who therefore paid such tax, but who can show, to
25 the Department's satisfaction, that they sold the cigarettes to
26 which they affixed such stamps after such tax had terminated

1 and did not recover the tax or its equivalent from purchasers,
2 shall be allowed by the Department to take credit for such
3 absorbed tax against subsequent tax stamp purchases from the
4 Department by such distributor.

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

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

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

10 Any distributor having cigarettes to which stamps have been
11 affixed in his or her possession for sale on July 1, 2002 shall
12 not be required to pay the additional tax imposed by this
13 amendatory Act of the 92nd General Assembly on those stamped
14 cigarettes. Any retailer having cigarettes in his or her
15 possession on March 1, 2011 to which tax stamps have been
16 affixed is not required to pay the additional tax that begins
17 on March 1, 2011 imposed by this amendatory Act of the 96th
18 General Assembly on those stamped cigarettes. Any distributor
19 having cigarettes in his or her possession on March 1, 2011 to
20 which tax stamps have been affixed is required to pay the
21 additional tax that begins on March 1, 2011 imposed by this
22 amendatory Act of the 96th General Assembly to the extent the
23 calendar year 2011 average monthly volume of cigarette stamps
24 in the distributor's possession exceeds the average monthly
25 volume of cigarette stamps purchased by the distributor in
26 calendar year 2010. This payment, less the discount provided in

1 subsection (b), is due when the distributor first makes a
2 purchase of cigarette stamps on or after March 1, 2011 or on
3 the first due date of a return under this Act occurring on or
4 after March 1, 2011, whichever occurs first.

5 Distributors making sales of cigarettes to secondary
6 distributors shall add the amount of the tax to the price of
7 the cigarettes sold by the distributors. Secondary
8 distributors making sales of cigarettes to retailers shall
9 include the amount of the tax in the price of the cigarettes
10 sold to retailers. The amount of tax shall not be less than the
11 amount of taxes imposed by the State and all local
12 jurisdictions. The amount of local taxes shall be calculated
13 based on the location of the retailer's place of business shown
14 on the retailer's certificate of registration or
15 sub-registration issued to the retailer pursuant to Section 2a
16 of the Retailers' Occupation Tax Act. The original packages of
17 cigarettes sold to the retailer shall bear all the required
18 stamps, or other indicia, for the taxes included in the price
19 of cigarettes.

20 The amount of the Cigarette Tax imposed by this Act shall
21 be separately stated, apart from the price of the goods, by
22 distributors, secondary distributors, and retailers, in all
23 bills and sales invoices.

24 (b) The distributor shall be required to collect the taxes
25 provided under paragraph (a) hereof, and, to cover the costs of
26 such collection, shall be allowed a discount during any year

1 commencing July 1st and ending the following June 30th in
2 accordance with the schedule set out hereinbelow, which
3 discount shall be allowed at the time of purchase of the stamps
4 when purchase is required by this Act, or at the time when the
5 tax is remitted to the Department without the purchase of
6 stamps from the Department when that method of paying the tax
7 is required or authorized by this Act. Prior to December 1,
8 1985, a discount equal to $1\frac{2}{3}\%$ of the amount of the tax up to
9 and including the first \$700,000 paid hereunder by such
10 distributor to the Department during any such year; $1\frac{1}{3}\%$ of
11 the next \$700,000 of tax or any part thereof, paid hereunder by
12 such distributor to the Department during any such year; 1% of
13 the next \$700,000 of tax, or any part thereof, paid hereunder
14 by such distributor to the Department during any such year, and
15 $\frac{2}{3}$ of 1% of the amount of any additional tax paid hereunder by
16 such distributor to the Department during any such year shall
17 apply. On and after December 1, 1985, a discount equal to 1.75%
18 of the amount of the tax payable under this Act up to and
19 including the first \$3,000,000 paid hereunder by such
20 distributor to the Department during any such year and 1.5% of
21 the amount of any additional tax paid hereunder by such
22 distributor to the Department during any such year shall apply.

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

1 (c) The taxes herein imposed are in addition to all other
2 occupation or privilege taxes imposed by the State of Illinois,
3 or by any political subdivision thereof, or by any municipal
4 corporation.

5 (Source: P.A. 96-1027, eff. 7-12-10.)

6 (35 ILCS 130/3) (from Ch. 120, par. 453.3)

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

19 No stamp or imprint may be affixed to, or made upon, any
20 package of cigarettes unless that package complies with all
21 requirements of the federal Cigarette Labeling and Advertising
22 Act, 15 U.S.C. 1331 and following, for the placement of labels,
23 warnings, or any other information upon a package of cigarettes
24 that is sold within the United States. Under the authority of
25 Section 6, the Department shall revoke the license of any

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

10 Only distributors licensed under this Act and
11 transporters, as defined in Section 9c of this Act, may possess
12 unstamped original packages of cigarettes. Prior to shipment to
13 a secondary distributor or an Illinois retailer, a stamp shall
14 be applied to each original package of cigarettes sold to the
15 secondary distributor or retailer. A distributor may apply tax
16 stamps only to original packages of cigarettes purchased or
17 obtained directly from an in-state maker, manufacturer, or
18 fabricator licensed as a distributor under Section 4 of this
19 Act or an out-of-state maker, manufacturer, or fabricator
20 holding a permit under Section 4b of this Act. A licensed
21 distributor may ship or otherwise cause to be delivered
22 unstamped original packages of cigarettes in, into, or from
23 this State. A licensed distributor may transport unstamped
24 original packages of cigarettes to a facility, wherever
25 located, owned or controlled by such distributor; however, a
26 distributor may not transport unstamped original packages of

1 cigarettes to a facility where retail sales of cigarettes take
2 place or to a facility where a secondary distributor makes
3 sales for resale. Any licensed distributor that ships or
4 otherwise causes to be delivered unstamped original packages of
5 cigarettes into, within, or from this State shall ensure that
6 the invoice or equivalent documentation and the bill of lading
7 or freight bill for the shipment identifies the true name and
8 address of the consignor or seller, the true name and address
9 of the consignee or purchaser, and the quantity by brand style
10 of the cigarettes so transported, provided that this Section
11 shall not be construed as to impose any requirement or
12 liability upon any common or contract carrier.

13 The Department, or any person authorized by the Department,
14 shall sell such stamps only to persons holding valid licenses
15 as distributors under this Act. On and after July 1, 2003,
16 payment for such stamps must be made by means of electronic
17 funds transfer. The Department may refuse to sell stamps to any
18 person who does not comply with the provisions of this Act.
19 Beginning on the effective date of this amendatory Act of the
20 92nd General Assembly and through June 30, 2002, persons
21 holding valid licenses as distributors may purchase cigarette
22 tax stamps up to an amount equal to 115% of the distributor's
23 average monthly cigarette tax stamp purchases over the 12
24 calendar months prior to the effective date of this amendatory
25 Act of the 92nd General Assembly.

26 Prior to December 1, 1985, the Department shall allow a

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

23 On and after December 1, 1985 and until July 1, 2003, the
24 Department shall allow a distributor 30 days in which to make
25 final payment of the amount to be paid for such stamps, by
26 allowing the distributor to make payment for the stamps at the

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

26 Beginning on the effective date of this amendatory Act of

1 the 96th General Assembly, the Department shall allow a
2 distributor 10 days in which to make final payment of the
3 amount to be paid for such stamps, by allowing the distributor
4 to make payment for the stamps at the time of purchasing them
5 with a draft, which shall be payable by means of electronic
6 funds transfer and in such form as the Department prescribes,
7 and which shall be payable within 10 days thereafter, provided
8 that such distributor has filed with the Department, and has
9 received the Department's approval of, a bond, which is in
10 addition to the bond required under Section 4 of this Act,
11 payable to the Department in an amount equal to 100% of that
12 distributor's average monthly tax liability to the Department
13 under this Act during the preceding calendar year or \$750,000,
14 whichever is less. The bond shall be joint and several and
15 shall be in the form of a surety company bond in such form as
16 the Department prescribes, or it may be in the form of a bank
17 certificate of deposit or bank letter of credit. The bond shall
18 be conditioned upon the distributor's payment of the amount of
19 any 10-day draft which the Department accepts from that
20 distributor for the delivery of stamps to that distributor
21 under this Act. The distributor's failure to pay any such
22 draft, when due, shall also make such distributor automatically
23 liable to the Department for a penalty equal to 25% of the
24 amount of such draft.

25 Every prior continuous compliance taxpayer shall be exempt
26 from all requirements under this Section concerning the

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

25 Any person aggrieved by any decision of the Department
26 under this Section may, within the time allowed by law, protest

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

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

12 (1) Such taxpayer becomes a prior continuous compliance
13 taxpayer; or

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

25 The Department may authorize distributors to affix revenue
26 tax stamps by imprinting tax meter stamps upon original

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

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

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

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

21 (Source: P.A. 95-1053, eff. 1-1-10; 96-782, eff. 1-1-10;
22 96-1027, eff. 7-12-10.)

23 Section 15. The Cigarette Use Tax Act is amended by
24 changing Sections 2, 3, and 12 as follows:

1 (35 ILCS 135/2) (from Ch. 120, par. 453.32)

2 Sec. 2. A tax is imposed upon the privilege of using
3 cigarettes in this State, at the rate of 6 mills per cigarette
4 so used. On and after December 1, 1985, in addition to any
5 other tax imposed by this Act, a tax is imposed upon the
6 privilege of using cigarettes in this State at a rate of 4
7 mills per cigarette so used. On and after the effective date of
8 this amendatory Act of 1989, in addition to any other tax
9 imposed by this Act, a tax is imposed upon the privilege of
10 using cigarettes in this State at the rate of 5 mills per
11 cigarette so used. On and after the effective date of this
12 amendatory Act of 1993, in addition to any other tax imposed by
13 this Act, a tax is imposed upon the privilege of using
14 cigarettes in this State at a rate of 7 mills per cigarette so
15 used. On and after December 15, 1997, in addition to any other
16 tax imposed by this Act, a tax is imposed upon the privilege of
17 using cigarettes in this State at a rate of 7 mills per
18 cigarette so used. On and after July 1, 2002, in addition to
19 any other tax imposed by this Act, a tax is imposed upon the
20 privilege of using cigarettes in this State at a rate of 20.0
21 mills per cigarette so used. Beginning on March 1, 2011, in
22 addition to any other tax imposed by this Act, a tax is imposed
23 upon the privilege of using cigarettes in this State at a rate
24 of 50.5 mills per cigarette so used. The taxes herein imposed
25 shall be in addition to all other occupation or privilege taxes
26 imposed by the State of Illinois or by any political

1 subdivision thereof or by any municipal corporation.

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

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

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

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

9 Any distributor having cigarettes to which stamps have been
10 affixed in his or her possession for sale on July 1, 2002 shall
11 not be required to pay the additional tax imposed by this
12 amendatory Act of the 92nd General Assembly on those stamped
13 cigarettes. Any retailer having cigarettes in his or her
14 possession on March 1, 2011 to which tax stamps have been
15 affixed is not required to pay the additional tax that begins
16 on March 1, 2011 imposed by this amendatory Act of the 96th
17 General Assembly on those stamped cigarettes. Any distributor
18 having cigarettes in his or her possession on March 1, 2011 to
19 which tax stamps have been affixed is required to pay the
20 additional tax that begins on March 1, 2011 imposed by this
21 amendatory Act of the 96th General Assembly to the extent the
22 calendar year 2011 average monthly volume of cigarette stamps
23 in the distributor's possession exceeds the average monthly
24 volume of cigarette stamps purchased by the distributor in
25 calendar year 2010. This payment, less the discount provided in
26 Section 3, is due when the distributor first makes a purchase

1 of cigarette stamps on or after March 1, 2011 or on the first
2 due date of a return under this Act occurring on or after March
3 1, 2011, whichever occurs first.

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

5 (35 ILCS 135/3) (from Ch. 120, par. 453.33)

6 Sec. 3. Stamp payment. The tax hereby imposed shall be
7 collected by a distributor maintaining a place of business in
8 this State or a distributor authorized by the Department
9 pursuant to Section 7 hereof to collect the tax, and the amount
10 of the tax shall be added to the price of the cigarettes sold
11 by such distributor. Collection of the tax shall be evidenced
12 by a stamp or stamps affixed to each original package of
13 cigarettes or by an authorized substitute for such stamp
14 imprinted on each original package of such cigarettes
15 underneath the sealed transparent outside wrapper of such
16 original package, except as hereinafter provided. Each
17 distributor who is required or authorized to collect the tax
18 herein imposed, before delivering or causing to be delivered
19 any original packages of cigarettes in this State to any
20 purchaser, shall firmly affix a proper stamp or stamps to each
21 such package, or (in the case of manufacturers of cigarettes in
22 original packages which are contained inside a sealed
23 transparent wrapper) shall imprint the required language on the
24 original package of cigarettes beneath such outside wrapper as
25 hereinafter provided. Such stamp or stamps need not be affixed

1 to the original package of any cigarettes with respect to which
2 the distributor is required to affix a like stamp or stamps by
3 virtue of the Cigarette Tax Act, however, and no tax imprint
4 need be placed underneath the sealed transparent wrapper of an
5 original package of cigarettes with respect to which the
6 distributor is required or authorized to employ a like tax
7 imprint by virtue of the Cigarette Tax Act.

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

24 Only distributors licensed under this Act and
25 transporters, as defined in Section 9c of the Cigarette Tax
26 Act, may possess unstamped original packages of cigarettes.

1 Prior to shipment to an Illinois retailer or secondary
2 distributor, a stamp shall be applied to each original package
3 of cigarettes sold to the retailer or secondary distributor. A
4 distributor may apply a tax stamp only to an original package
5 of cigarettes purchased or obtained directly from an in-state
6 maker, manufacturer, or fabricator licensed as a distributor
7 under Section 4 of this Act or an out-of-state maker,
8 manufacturer, or fabricator holding a permit under Section 7 of
9 this Act. A licensed distributor may ship or otherwise cause to
10 be delivered unstamped original packages of cigarettes in,
11 into, or from this State. A licensed distributor may transport
12 unstamped original packages of cigarettes to a facility,
13 wherever located, owned or controlled by such distributor;
14 however, a distributor may not transport unstamped original
15 packages of cigarettes to a facility where retail sales of
16 cigarettes take place or to a facility where a secondary
17 distributor makes sales for resale. Any licensed distributor
18 that ships or otherwise causes to be delivered unstamped
19 original packages of cigarettes into, within, or from this
20 State shall ensure that the invoice or equivalent documentation
21 and the bill of lading or freight bill for the shipment
22 identifies the true name and address of the consignor or
23 seller, the true name and address of the consignee or
24 purchaser, and the quantity by brand style of the cigarettes so
25 transported, provided that this Section shall not be construed
26 as to impose any requirement or liability upon any common or

1 contract carrier.

2 Distributors making sales of cigarettes to secondary
3 distributors shall add the amount of the tax to the price of
4 the cigarettes sold by the distributors. Secondary
5 distributors making sales of cigarettes to retailers shall
6 include the amount of the tax in the price of the cigarettes
7 sold to retailers. The amount of tax shall not be less than the
8 amount of taxes imposed by the State and all local
9 jurisdictions. The amount of local taxes shall be calculated
10 based on the location of the retailer's place of business shown
11 on the retailer's certificate of registration or
12 sub-registration issued to the retailer pursuant to Section 2a
13 of the Retailers' Occupation Tax Act. The original packages of
14 cigarettes sold by the retailer shall bear all the required
15 stamps, or other indicia, for the taxes included in the price
16 of cigarettes.

17 Stamps, when required hereunder, shall be purchased from
18 the Department, or any person authorized by the Department, by
19 distributors. On and after July 1, 2003, payment for such
20 stamps must be made by means of electronic funds transfer. The
21 Department may refuse to sell stamps to any person who does not
22 comply with the provisions of this Act. Beginning on June 6,
23 2002 and through June 30, 2002, persons holding valid licenses
24 as distributors may purchase cigarette tax stamps up to an
25 amount equal to 115% of the distributor's average monthly
26 cigarette tax stamp purchases over the 12 calendar months prior

1 to June 6, 2002.

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

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

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

1 25% of the amount of such draft.

2 Beginning on the effective date of this amendatory Act of
3 the 96th General Assembly, the Department shall allow a
4 distributor 10 days in which to make final payment of the
5 amount to be paid for such stamps, by allowing the distributor
6 to make payment for the stamps at the time of purchasing them
7 with a draft, which shall be payable by means of electronic
8 funds transfer and in such form as the Department prescribes,
9 and which shall be payable within 10 days thereafter, provided
10 that such distributor has filed with the Department, and has
11 received the Department's approval of, a bond, which is in
12 addition to the bond required under Section 4 of this Act,
13 payable to the Department in an amount equal to 100% of that
14 distributor's average monthly tax liability to the Department
15 under this Act during the preceding calendar year or \$750,000,
16 whichever is less. The bond shall be joint and several and
17 shall be in the form of a surety company bond in such form as
18 the Department prescribes, or it may be in the form of a bank
19 certificate of deposit or bank letter of credit. The bond shall
20 be conditioned upon the distributor's payment of the amount of
21 any 10-day draft which the Department accepts from that
22 distributor for the delivery of stamps to that distributor
23 under this Act. The distributor's failure to pay any such
24 draft, when due, shall also make such distributor automatically
25 liable to the Department for a penalty equal to 25% of the
26 amount of such draft.

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

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

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

14 (1) such Taxpayer becomes a prior continuous
15 compliance taxpayer; or

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

1 therefor.

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

1 to the Department during any such year or (2) On and after
2 December 1, 1985, a discount equal to 1.75% of the amount of
3 the tax payable under this Act up to and including the first
4 \$3,000,000 paid hereunder by such distributor to the Department
5 during any such year and 1.5% of the amount of any additional
6 tax paid hereunder by such distributor to the Department during
7 any such year.

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

12 Cigarette manufacturers who are distributors under Section
13 7(a) of this Act, and who place their cigarettes in original
14 packages which are contained inside a sealed transparent
15 wrapper, shall be required to remit the tax which they are
16 required to collect under this Act to the Department by
17 remitting the amount thereof to the Department by the 5th day
18 of each month, covering cigarettes shipped or otherwise
19 delivered to points in Illinois to purchasers during the
20 preceding calendar month, but a distributor need not remit to
21 the Department the tax so collected by him from purchasers
22 under this Act to the extent to which such distributor is
23 required to remit the tax imposed by the Cigarette Tax Act to
24 the Department with respect to the same cigarettes. All taxes
25 upon cigarettes under this Act are a direct tax upon the retail
26 consumer and shall conclusively be presumed to be precollected

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

21 The Department shall adopt the design or designs of the tax
22 stamps and shall procure the printing of such stamps in such
23 amounts and denominations as it deems necessary to provide for
24 the affixation of the proper amount of tax stamps to each
25 original package of cigarettes.

26 Where tax stamps are required, the Department may authorize

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

14 The tax hereby imposed and not paid pursuant to this
15 Section shall be paid to the Department directly by any person
16 using such cigarettes within this State, pursuant to Section 12
17 hereof.

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

1 and sold in this State or otherwise failed to bring itself into
2 compliance with subdivision (a) (2) of Section 15 of the Tobacco
3 Product Manufacturers' Escrow Act.

4 (Source: P.A. 96-782, eff. 1-1-10; 96-1027, eff. 7-12-10.)

5 (35 ILCS 135/12) (from Ch. 120, par. 453.42)

6 Sec. 12. Declaration of possession of cigarettes on which
7 tax not paid.

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

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

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

25 (d) Nothing in this Section shall permit a secondary

1 distributor to purchase unstamped original packages of
2 cigarettes or to purchase original packages of cigarettes from
3 a person other than a licensed distributor.

4 (e) The provisions of this Section are not subject to the
5 Uniform Penalty and Interest Act.

6 (Source: P.A. 96-1027, eff. 7-12-10.)

7 Section 20. The Tobacco Products Tax Act of 1995 is amended
8 by changing Sections 10-5, 10-10, and 10-30 as follows:

9 (35 ILCS 143/10-5)

10 Sec. 10-5. Definitions. For purposes of this Act:

11 "Business" means any trade, occupation, activity, or
12 enterprise engaged in, at any location whatsoever, for the
13 purpose of selling tobacco products.

14 "Cigarette" has the meaning ascribed to the term in Section
15 1 of the Cigarette Tax Act.

16 "Correctional Industries program" means a program run by a
17 State penal institution in which residents of the penal
18 institution produce tobacco products for sale to persons
19 incarcerated in penal institutions or resident patients of a
20 State operated mental health facility.

21 "Department" means the Illinois Department of Revenue.

22 "Distributor" means any of the following:

23 (1) Any manufacturer or wholesaler in this State
24 engaged in the business of selling tobacco products who

1 sells, exchanges, or distributes tobacco products to
2 retailers or consumers in this State.

3 (2) Any manufacturer or wholesaler engaged in the
4 business of selling tobacco products from without this
5 State who sells, exchanges, distributes, ships, or
6 transports tobacco products to retailers or consumers
7 located in this State, so long as that manufacturer or
8 wholesaler has or maintains within this State, directly or
9 by subsidiary, an office, sales house, or other place of
10 business, or any agent or other representative operating
11 within this State under the authority of the person or
12 subsidiary, irrespective of whether the place of business
13 or agent or other representative is located here
14 permanently or temporarily.

15 (3) Any retailer who receives tobacco products on which
16 the tax has not been or will not be paid by another
17 distributor.

18 "Distributor" does not include any person, wherever
19 resident or located, who makes, manufactures, or fabricates
20 tobacco products as part of a Correctional Industries program
21 for sale to residents incarcerated in penal institutions or
22 resident patients of a State operated mental health facility.

23 "Manufacturer" means any person, wherever resident or
24 located, who manufactures and sells tobacco products, except a
25 person who makes, manufactures, or fabricates tobacco products
26 as a part of a Correctional Industries program for sale to

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

3 "Moist snuff" means any finely cut, ground, or powdered
4 tobacco that is not intended to be smoked, but shall not
5 include any finely cut, ground, or powdered tobacco that is
6 intended to be placed in the nasal cavity.

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

13 "Place of business" means and includes any place where
14 tobacco products are sold or where tobacco products are
15 manufactured, stored, or kept for the purpose of sale or
16 consumption, including any vessel, vehicle, airplane, train,
17 or vending machine.

18 "Retailer" means any person in this State engaged in the
19 business of selling tobacco products to consumers in this
20 State, regardless of quantity or number of sales.

21 "Sale" means any transfer, exchange, or barter in any
22 manner or by any means whatsoever for a consideration and
23 includes all sales made by persons.

24 "Tobacco products" means any cigars; cheroots; stogies;
25 periques; granulated, plug cut, crimp cut, ready rubbed, and
26 other smoking tobacco; snuff (including moist snuff) or snuff

1 flour; cavendish; plug and twist tobacco; fine-cut and other
2 chewing tobaccos; shorts; refuse scraps, clippings, cuttings,
3 and sweeping of tobacco; and other kinds and forms of tobacco,
4 prepared in such manner as to be suitable for chewing or
5 smoking in a pipe or otherwise, or both for chewing and
6 smoking; but does not include cigarettes or tobacco purchased
7 for the manufacture of cigarettes by cigarette distributors and
8 manufacturers defined in the Cigarette Tax Act and persons who
9 make, manufacture, or fabricate cigarettes as a part of a
10 Correctional Industries program for sale to residents
11 incarcerated in penal institutions or resident patients of a
12 State operated mental health facility.

13 "Wholesale price" means the established list price for
14 which a manufacturer sells tobacco products to a distributor,
15 before the allowance of any discount, trade allowance, rebate,
16 or other reduction. In the absence of such an established list
17 price, the manufacturer's invoice price at which the
18 manufacturer sells the tobacco product to unaffiliated
19 distributors, before any discounts, trade allowances, rebates,
20 or other reductions, shall be presumed to be the wholesale
21 price.

22 "Wholesaler" means any person, wherever resident or
23 located, engaged in the business of selling tobacco products to
24 others for the purpose of resale.

25 (Source: P.A. 92-231, eff. 8-2-01.)

1 (35 ILCS 143/10-10)

2 Sec. 10-10. Tax imposed. On the first day of the third
3 month after the month in which this Act becomes law and until
4 March 1, 2011, a tax is imposed on any person engaged in
5 business as a distributor of tobacco products, as defined in
6 Section 10-5, at the rate of 18% of the wholesale price of
7 tobacco products sold or otherwise disposed of to retailers or
8 consumers located in this State. Beginning on March 1, 2011, a
9 tax is imposed on any person engaged in business as a
10 distributor of tobacco products, as defined in Section 10-5, at
11 the rate of (i) 18% of the wholesale price of tobacco products,
12 other than moist snuff, sold or otherwise disposed of to
13 retailers or consumers located in this State and (ii) \$0.20 per
14 ounce of moist snuff, and a proportionate tax at the like rate
15 on all fractional parts of an ounce, sold or otherwise disposed
16 of to retailers or consumers located in this State. The tax is
17 in addition to all other occupation or privilege taxes imposed
18 by the State of Illinois, by any political subdivision thereof,
19 or by any municipal corporation. However, the tax is not
20 imposed upon any activity in that business in interstate
21 commerce or otherwise, to the extent to which that activity may
22 not, under the Constitution and Statutes of the United States,
23 be made the subject of taxation by this State. The tax is also
24 not imposed on sales made to the United States or any entity
25 thereof.

26 Beginning on March 1, 2011, the tax rate imposed per ounce

1 of moist snuff may not exceed 11% of the tax imposed upon a
2 package of 20 cigarettes pursuant to the Cigarette Tax Act.

3 All moneys received by the Department under this Act shall
4 be paid into the Long-Term Care Provider Fund of the State
5 Treasury.

6 (Source: P.A. 92-231, eff. 8-2-01.)

7 (35 ILCS 143/10-30)

8 Sec. 10-30. Returns. Every distributor shall, on or before
9 the 15th day of each month, file a return with the Department
10 covering the preceding calendar month. The return shall
11 disclose the wholesale price for all tobacco products and the
12 quantity of moist snuff sold or otherwise disposed of and other
13 information that the Department may reasonably require. The
14 return shall be filed upon a form prescribed and furnished by
15 the Department.

16 At the time when any return of any distributor is due to be
17 filed with the Department, the distributor shall also remit to
18 the Department the tax liability that the distributor has
19 incurred for transactions occurring in the preceding calendar
20 month.

21 (Source: P.A. 89-21, eff. 6-6-95.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.".