



Rep. John E. Bradley

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LRB096 06450 HLH 27665 a

1 AMENDMENT TO SENATE BILL 415

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 415 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. If and only if Senate Bill 44 of the 96th  
5 General Assembly becomes law in the form it passed the Senate,  
6 the Cigarette Tax Act is amended by changing Sections 1 and 2  
7 as follows:

8 (35 ILCS 130/1) (from Ch. 120, par. 453.1)

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

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

16 "Cigarette" when used in this Act, shall also be construed

1 to mean: any roll for smoking made wholly or in part of tobacco  
2 labeled as anything other than a cigarette or not bearing a  
3 label, if it meets 2 or more of the following criteria:

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

5 (b) the product is available for sale in cartons of 10  
6 packs;

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

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

11 (e) the product has a cellulose acetate or other integrated  
12 filter;

13 (f) the product weighs less than 3 pounds per thousand  
14 sticks;

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

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

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

25 "Prior Continuous Compliance Taxpayer" means any person  
26 who is licensed under this Act and who, having been a licensee

1 for a continuous period of 5 years, is determined by the  
2 Department not to have been either delinquent or deficient in  
3 the payment of tax liability during that period or otherwise in  
4 violation of this Act. Also, any taxpayer who has, as verified  
5 by the Department, continuously complied with the condition of  
6 his bond or other security under provisions of this Act for a  
7 period of 5 consecutive years shall be considered to be a  
8 "Prior continuous compliance taxpayer". In calculating the  
9 consecutive period of time described herein for qualification  
10 as a "prior continuous compliance taxpayer", a consecutive  
11 period of time of qualifying compliance immediately prior to  
12 the effective date of this amendatory Act of 1987 shall be  
13 credited to any licensee who became licensed on or before the  
14 effective date of this amendatory Act of 1987.

15 "Department" means the Department of Revenue.

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

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

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

23 (1) Any person engaged in the business of selling  
24 cigarettes in this State who brings or causes to be brought  
25 into this State from without this State any original  
26 packages of cigarettes, on which original packages there is

1 no authorized evidence underneath a sealed transparent  
2 wrapper showing that the tax liability imposed by this Act  
3 has been paid or assumed by the out-of-State seller of such  
4 cigarettes, for sale or other disposition in the course of  
5 such business.

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

12 (3) 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 4b of this Act.

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

23 "Business" means any trade, occupation, activity or  
24 enterprise engaged in for the purpose of selling cigarettes in  
25 this State.

26 "Retailer" means any person who engages in the making of

1 transfers of the ownership of, or title to, cigarettes to a  
2 purchaser for use or consumption and not for resale in any  
3 form, for a valuable consideration. "Retailer" does not include  
4 a person:

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

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

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

23 (Source: P.A. 95-462, eff. 8-27-07; 09600SB0044eng.)

24 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

25 Sec. 2. Tax imposed; rate; collection, payment, and

1 distribution; discount.

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

1 this Act, a tax is imposed upon any person engaged in business  
2 as a retailer of cigarettes at the rate of 7 mills per  
3 cigarette sold or otherwise disposed of in the course of such  
4 business in this State. On and after December 15, 1997, in  
5 addition to any other tax imposed by this Act, a tax is imposed  
6 upon any person engaged in business as a retailer of cigarettes  
7 at the rate of 7 mills per cigarette sold or otherwise disposed  
8 of in the course of such business of this State. All of the  
9 moneys received by the Department of Revenue pursuant to this  
10 Act and the Cigarette Use Tax Act from the additional taxes  
11 imposed by this amendatory Act of 1997, shall be paid each  
12 month into the Common School Fund. On and after July 1, 2002,  
13 in addition to any other tax imposed by this Act, a tax is  
14 imposed upon any person engaged in business as a retailer of  
15 cigarettes at the rate of 20.0 mills per cigarette sold or  
16 otherwise disposed of in the course of such business in this  
17 State. Beginning on September 1, 2009, in addition to any other  
18 tax imposed by this Act, a tax is imposed upon any person  
19 engaged in business as a retailer of cigarettes at the rate of  
20 25 mills per cigarette sold or otherwise disposed of in the  
21 course of such business in this State. Beginning on September  
22 1, 2010, in addition to any other tax imposed by this Act, a  
23 tax is imposed upon any person engaged in business as a  
24 retailer of cigarettes at the rate of 12.5 ~~25~~ mills per  
25 cigarette sold or otherwise disposed of in the course of such  
26 business in this State. Beginning on September 1, 2011, in

1 addition to any other tax imposed by this Act, a tax is imposed  
2 upon any person engaged in business as a retailer of cigarettes  
3 at the rate of 12.5 mills per cigarette sold or otherwise  
4 disposed of in the course of such business in this State. Of

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

23 Beginning on the effective date of this amendatory Act of  
24 the 92nd General Assembly and through June 30, 2006, all of the  
25 moneys received by the Department of Revenue pursuant to this  
26 Act and the Cigarette Use Tax Act, other than the moneys that



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

1 General Revenue Fund and Common School Fund by that same excess  
2 amount.

3 Beginning on July 1, 2006, all of the moneys received by  
4 the Department of Revenue pursuant to this Act and the  
5 Cigarette Use Tax Act, other than the moneys that are dedicated  
6 to the Common School Fund and, beginning on the effective date  
7 of this amendatory Act of the 96th General Assembly, other than  
8 the moneys from the additional taxes imposed by this amendatory  
9 Act of the 96th General Assembly that must be paid each month  
10 into the Tax Compliance and Administration Fund and the  
11 Healthcare Provider Relief Fund, shall be distributed each  
12 month as follows: first, there shall be paid into the General  
13 Revenue Fund an amount that, when added to the amount paid into  
14 the Common School Fund for that month, equals \$29,200,000;  
15 then, from the moneys remaining, if any amounts required to be  
16 paid into the General Revenue Fund in previous months remain  
17 unpaid, those amounts shall be paid into the General Revenue  
18 Fund; then from the moneys remaining, \$5,000,000 per month  
19 shall be paid into the School Infrastructure Fund; then, if any  
20 amounts required to be paid into the School Infrastructure Fund  
21 in previous months remain unpaid, those amounts shall be paid  
22 into the School Infrastructure Fund; then the moneys remaining,  
23 if any, shall be paid into the Long-Term Care Provider Fund.

24 When any tax imposed herein terminates or has terminated,  
25 distributors who have bought stamps while such tax was in  
26 effect and who therefore paid such tax, but who can show, to

1 the Department's satisfaction, that they sold the cigarettes to  
2 which they affixed such stamps after such tax had terminated  
3 and did not recover the tax or its equivalent from purchasers,  
4 shall be allowed by the Department to take credit for such  
5 absorbed tax against subsequent tax stamp purchases from the  
6 Department by such distributor.

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

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

1 1993, is required to pay the additional tax imposed by this  
2 amendatory Act of 1993 on such stamped cigarettes. This  
3 payment, less the discount provided in subsection (b), shall be  
4 due when the distributor first makes a purchase of cigarette  
5 tax stamps after the effective date of this amendatory Act of  
6 1993, or on the first due date of a return under this Act after  
7 the effective date of this amendatory Act of 1993, whichever  
8 occurs first. Any distributor having cigarettes to which stamps  
9 have been affixed in his possession for sale on December 15,  
10 1997 shall not be required to pay the additional tax imposed by  
11 this amendatory Act of 1997 on such stamped cigarettes.

12 Any distributor having cigarettes to which stamps have been  
13 affixed in his or her possession for sale on July 1, 2002 shall  
14 not be required to pay the additional tax imposed by this  
15 amendatory Act of the 92nd General Assembly on those stamped  
16 cigarettes. Any retailer having cigarettes in his or her  
17 possession on September 1, 2009 to which tax stamps have been  
18 affixed is not required to pay the additional tax that begins  
19 of September 1, 2009 imposed by an amendatory Act of the 96th  
20 General Assembly on those stamped cigarettes. Any distributor  
21 having cigarettes in his or her possession on September 1, 2009  
22 to which tax stamps have been affixed is required to pay the  
23 additional tax that begins on September 1, 2009 imposed by an  
24 amendatory Act of the 96th General Assembly to the extent the  
25 calendar year 2009 average monthly volume of cigarette stamps  
26 in the distributor's possession exceeds the average monthly

1 volume of cigarette stamps purchased by the distributor in  
2 calendar year 2008. This payment, less the discount provided in  
3 subsection (b), is due when the distributor first makes a  
4 purchase of cigarette stamps on or after September 1, 2009 or  
5 on the first due date of a return under this Act occurring on  
6 or after September 1, 2009, whichever occurs first.

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

24 Any retailer having cigarettes in his or her possession on  
25 September 1, 2011 to which tax stamps have been affixed is not  
26 required to pay the additional tax that begins of September 1,

1 2011 imposed by an amendatory Act of the 96th General Assembly  
2 on those stamped cigarettes. Any distributor having cigarettes  
3 in his or her possession on September 1, 2011 to which tax  
4 stamps have been affixed is required to pay the additional tax  
5 that begins on September 1, 2011 imposed by an amendatory Act  
6 of the 96th General Assembly to the extent the calendar year  
7 2011 average monthly volume of cigarette stamps in the  
8 distributor's possession exceeds the average monthly volume of  
9 cigarette stamps purchased by the distributor in calendar year  
10 2010. This payment, less the discount provided in subsection  
11 (b), is due when the distributor first makes a purchase of  
12 cigarette stamps on or after September 1, 2011 or on the first  
13 due date of a return under this Act occurring on or after  
14 September 1, 2011, whichever occurs first. Any distributor  
15 ~~having cigarettes to which stamps have been affixed in his or~~  
16 ~~her possession for sale on or after September 1, 2009 is~~  
17 ~~required to pay the additional tax imposed by this amendatory~~  
18 ~~Act of the 96th General Assembly on those stamped cigarettes.~~  
19 ~~This payment, less the discount provided in subsection (b), is~~  
20 ~~due when the distributor first makes a purchase of cigarette~~  
21 ~~tax stamps on or after September 1, 2009 or on the first due~~  
22 ~~date of a return under this Act occurring on or after September~~  
23 ~~1, 2009, whichever occurs first. Any distributor having~~  
24 ~~cigarettes to which stamps have been affixed in his or her~~  
25 ~~possession for sale on or after September 1, 2010 is required~~  
26 ~~to pay the additional tax imposed by this amendatory Act of the~~

1 ~~96th General Assembly on those stamped cigarettes. This~~  
2 ~~payment, less the discount provided in subsection (b), is due~~  
3 ~~when the distributor first makes a purchase of cigarette tax~~  
4 ~~stamps on or after September 1, 2010 or on the first due date~~  
5 ~~of a return under this Act occurring on or after September 1,~~  
6 ~~2010, whichever occurs first.~~

7 The amount of the Cigarette Tax imposed by this Act shall  
8 be separately stated, apart from the price of the goods, by  
9 both distributors and retailers, in all advertisements, bills  
10 and sales invoices.

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

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

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

14 (c) The taxes herein imposed are in addition to all other  
15 occupation or privilege taxes imposed by the State of Illinois,  
16 or by any political subdivision thereof, or by any municipal  
17 corporation.

18 (Source: P.A. 93-839, eff. 7-30-04; 94-91, eff. 7-1-05; 94-839,  
19 eff. 6-6-06; 09600SB0044eng.)

20 Section 10. If and only if Senate Bill 44 of the 96th  
21 General Assembly becomes law in the form it passed the Senate,  
22 the Cigarette Use Tax Act is amended by changing Sections 1, 2,  
23 and 12 as follows:

24 (35 ILCS 135/1) (from Ch. 120, par. 453.31)



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

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

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

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

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

24           (b) the product is available for sale in cartons of 10  
25 packs;

26           (c) the product is sold in soft packs, hard packs, flip-top

1 boxes, clam shells, or other cigarette-type boxes;

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

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

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

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

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

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

18 "Department" means the Department of Revenue.

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

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

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

26 a. Any person engaged in the business of selling

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

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

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

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

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

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

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

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

26 (Source: P.A. 95-462, eff. 8-27-07; 09600SB0044eng.)

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 September 1, 2009, 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 25 mills per cigarette so used. Beginning on September 1,  
25 2010, in addition to any other tax imposed by this Act, a tax

1 is imposed upon the privilege of using ~~any person engaged in~~  
2 ~~business as a retailer of~~ cigarettes in this State at the rate  
3 of 12.5 ~~25~~ mills per cigarette so used ~~sold or otherwise~~  
4 ~~disposed of in the course of such business in this State.~~  
5 Beginning on September 1, 2011, in addition to any other tax  
6 imposed by this Act, a tax is imposed upon the privilege of  
7 using cigarettes in this State at the rate of 12.5 mills per  
8 cigarette so used. The taxes herein imposed shall be in  
9 addition to all other occupation or privilege taxes imposed by  
10 the State of Illinois or by any political subdivision thereof  
11 or by any municipal corporation.

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

21 When the word "tax" is used in this Act, it shall include  
22 any tax or tax rate imposed by this Act and shall mean the  
23 singular of "tax" or the plural "taxes" as the context may  
24 require.

25 Any distributor having cigarettes to which stamps have been  
26 affixed in his possession for sale on the effective date of

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

19 Any distributor having cigarettes to which stamps have been  
20 affixed in his or her possession for sale on July 1, 2002 shall  
21 not be required to pay the additional tax imposed by this  
22 amendatory Act of the 92nd General Assembly on those stamped  
23 cigarettes. Any retailer having cigarettes in his or her  
24 possession on September 1, 2009 to which tax stamps have been  
25 affixed is not required to pay the additional tax that begins  
26 of September 1, 2009 imposed by an amendatory Act of the 96th

1 General Assembly on those stamped cigarettes. Any distributor  
2 having cigarettes in his or her possession on September 1, 2009  
3 to which tax stamps have been affixed is required to pay the  
4 additional tax that begins on September 1, 2009 imposed by an  
5 amendatory Act of the 96th General Assembly to the extent the  
6 calendar year 2009 average monthly volume of cigarette stamps  
7 in the distributor's possession exceeds the average monthly  
8 volume of cigarette stamps purchased by the distributor in  
9 calendar year 2008. This payment, less the discount provided in  
10 Section 3, is due when the distributor first makes a purchase  
11 of cigarette stamps on or after September 1, 2009 or on the  
12 first due date of a return under this Act occurring on or after  
13 September 1, 2009, whichever occurs first.

14 Any retailer having cigarettes in his or her possession on  
15 September 1, 2010 to which tax stamps have been affixed is not  
16 required to pay the additional tax that begins on September 1,  
17 2010 imposed by an amendatory Act of the 96th General Assembly  
18 on those stamped cigarettes. Any distributor having cigarettes  
19 in his or her possession on September 1, 2010 to which tax  
20 stamps have been affixed is required to pay the additional tax  
21 that begins on September 1, 2010 imposed by an amendatory Act  
22 of the 96th General Assembly to the extent the calendar year  
23 2010 average monthly volume of cigarette stamps in the  
24 distributor's possession exceeds the average monthly volume of  
25 cigarette stamps purchased by the distributor in calendar year  
26 2009. This payment, less the discount provided in Section 3, is



1 due when the distributor first makes a purchase of cigarette  
2 stamps on or after September 1, 2010 or on the first due date  
3 of a return under this Act occurring on or after September 1,  
4 2010, whichever occurs first.

5 Any retailer having cigarettes in his or her possession on  
6 September 1, 2011 to which tax stamps have been affixed is not  
7 required to pay the additional tax that begins of September 1,  
8 2011 imposed by an amendatory Act of the 96th General Assembly  
9 on those stamped cigarettes. Any distributor having cigarettes  
10 in his or her possession on September 1, 2011 to which tax  
11 stamps have been affixed is required to pay the additional tax  
12 that begins on September 1, 2011 imposed by an amendatory Act  
13 of the 96th General Assembly to the extent the calendar year  
14 2011 average monthly volume of cigarette stamps in the  
15 distributor's possession exceeds the average monthly volume of  
16 cigarette stamps purchased by the distributor in calendar year  
17 2010. This payment, less the discount provided in Section 3, is  
18 due when the distributor first makes a purchase of cigarette  
19 stamps on or after September 1, 2011 or on the first due date  
20 of a return under this Act occurring on or after September 1,  
21 2011, whichever occurs first. Any distributor having  
22 eigarettes to which stamps have been affixed in his or her  
23 possession for sale on or after September 1, 2009 is required  
24 to pay the additional tax imposed by this amendatory Act of the  
25 96th General Assembly on those stamped cigarettes. This  
26 payment, less the discount provided in Section 3 of this Act,

1 ~~is due when the distributor first makes a purchase of cigarette~~  
2 ~~tax stamps on or after September 1, 2009 or on the first due~~  
3 ~~date of a return under this Act occurring on or after September~~  
4 ~~1, 2009, whichever occurs first. Any distributor having~~  
5 ~~cigarettes to which stamps have been affixed in his or her~~  
6 ~~possession for sale on or after September 1, 2010 is required~~  
7 ~~to pay the additional tax imposed by this amendatory Act of the~~  
8 ~~96th General Assembly on those stamped cigarettes. This~~  
9 ~~payment, less the discount provided in subsection (b), is due~~  
10 ~~when the distributor first makes a purchase of cigarette tax~~  
11 ~~stamps on or after September 1, 2010 or on the first due date~~  
12 ~~of a return under this Act occurring on or after September 1,~~  
13 ~~2010, whichever occurs first.~~

14 (Source: P.A. 92-536, eff. 6-6-02; 09600SB0044eng.)

15 (35 ILCS 135/12) (from Ch. 120, par. 453.42)

16 Sec. 12. Declaration of possession of cigarettes on which  
17 tax not paid.

18 (a) When cigarettes are acquired for use in this State by a  
19 person (including a distributor as well as any other person),  
20 who did not pay the tax herein imposed to a distributor, the  
21 person, within 30 days after acquiring the cigarettes, shall  
22 file with the Department a return declaring the possession of  
23 the cigarettes and shall transmit with the return to the  
24 Department the tax imposed by this Act.

25 (b) On receipt of the return and payment of the tax as

1 required by paragraph (a), the Department may furnish the  
2 person with a suitable tax stamp to be affixed to the package  
3 of cigarettes upon which the tax has been paid if the  
4 Department determines that the cigarettes still exist.

5 (c) The return referred to in paragraph (a) shall contain  
6 the name and address of the person possessing the cigarettes  
7 involved, the location of the cigarettes and the quantity,  
8 brand name, place, and date of the acquisition of the  
9 cigarettes.

10 (d) The provisions of this Section ~~subsection~~ are not  
11 subject to the Uniform Penalty and Interest Act.

12 (Source: P.A. 92-322, eff. 1-1-02; 09600SB0044eng.)

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