

1 AN ACT concerning regulation.

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

4 Section 5. The Department of Revenue Law of the Civil
5 Administrative Code of Illinois is amended by changing Section
6 2505-380 as follows:

7 (20 ILCS 2505/2505-380) (was 20 ILCS 2505/39b47)

8 Sec. 2505-380. Revocation of or refusal to issue or reissue
9 a certificate of registration, permit, or license.

10 (a) The Department has the power, after notice and an
11 opportunity for a hearing, to revoke a certificate of
12 registration, permit, or license issued by the Department if
13 the holder of the certificate of registration, permit, or
14 license fails to file a return, or to pay the tax, fee,
15 penalty, or interest shown in a filed return, or to pay any
16 final assessment of tax, fee, penalty, or interest, as required
17 by the tax or fee Act under which the certificate of
18 registration, permit, or license is required or any other tax
19 or fee Act administered by the Department.

20 (b) The Department may refuse to issue, reissue, or renew a
21 certificate of registration, permit, or license authorized to
22 be issued by the Department if a person who is named as the
23 owner, a partner, a corporate officer, or, in the case of a

1 limited liability company, a manager or member, of the
2 applicant on the application for the certificate of
3 registration, permit or license, is or has been named as the
4 owner, a partner, a corporate officer, or in the case of a
5 limited liability company, a manager or member, on the
6 application for the certificate of registration, permit, or
7 license of a person that is in default for moneys due under the
8 tax or fee Act upon which the certificate of registration,
9 permit, or license is required or any other tax or fee Act
10 administered by the Department. For purposes of this Section
11 only, in determining whether a person is in default for moneys
12 due, the Department shall include only amounts established as a
13 final liability within the 20 years prior to the date of the
14 Department's notice of refusal to issue or reissue the
15 certificate of registration, permit, or license. For purposes
16 of this Section, "person" means any natural individual, firm,
17 partnership, association, joint stock company, joint
18 adventure, public or private corporation, limited liability
19 company, or a receiver, executor, trustee, guardian or other
20 representative appointed by order of any court.

21 (c) When revoking or refusing to issue or reissue a
22 certificate of registration, permit, or license issued by the
23 Department, the procedure for notice and hearing used shall be
24 the procedure provided under the Act pursuant to which the
25 certificate of registration, permit, or license was issued.

26 (Source: P.A. 98-496, eff. 1-1-14.)

1 Section 10. The Cigarette Tax Act is amended by changing
2 Sections 3-10, 4d, 4e, 4f, 6, 7, 8, 10, 11, 11a, 11b, 23, 24,
3 and 26 and by adding Sections 4g, 4h, and 11c as follows:

4 (35 ILCS 130/3-10)

5 Sec. 3-10. Cigarette enforcement.

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

7 (1) to sell or distribute in this State; to acquire,
8 hold, own, possess, or transport, for sale or distribution
9 in this State; or to import, or cause to be imported into
10 this State for sale or distribution in this State:

11 (A) any cigarettes the package of which:

12 (i) bears any statement, label, stamp,
13 sticker, or notice indicating that the
14 manufacturer did not intend the cigarettes to be
15 sold, distributed, or used in the United States,
16 including but not limited to labels stating "For
17 Export Only", "U.S. Tax Exempt", "For Use Outside
18 U.S.", or similar wording; or

19 (ii) does not comply with:

20 (aa) all requirements imposed by or
21 pursuant to federal law regarding warnings and
22 other information on packages of cigarettes
23 manufactured, packaged, or imported for sale,
24 distribution, or use in the United States,

1 including but not limited to the precise
2 warning labels specified in the federal
3 Cigarette Labeling and Advertising Act, 15
4 U.S.C. 1333; and

5 (bb) all federal trademark and copyright
6 laws;

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

10 (C) any cigarettes that such person otherwise
11 knows or has reason to know the manufacturer did not
12 intend to be sold, distributed, or used in the United
13 States; or

14 (D) any cigarettes for which there has not been
15 submitted to the Secretary of the U.S. Department of
16 Health and Human Services the list or lists of the
17 ingredients added to tobacco in the manufacture of the
18 cigarettes required by the federal Cigarette Labeling
19 and Advertising Act, 15 U.S.C. 1335a;

20 (2) to alter the package of any cigarettes, prior to
21 sale or distribution to the ultimate consumer, so as to
22 remove, conceal, or obscure:

23 (A) any statement, label, stamp, sticker, or
24 notice described in subdivision (a)(1)(A)(i) of this
25 Section;

26 (B) any health warning that is not specified in, or

1 does not conform with the requirements of, the federal
2 Cigarette Labeling and Advertising Act, 15 U.S.C.
3 1333; or

4 (3) to affix any stamp required pursuant to this Act to
5 the package of any cigarettes described in subdivision
6 (a)(1) of this Section or altered in violation of
7 subdivision (a)(2).

8 (b) Documentation. On the first business day of each month,
9 each person licensed to affix the State tax stamp to cigarettes
10 shall file with the Department, for all cigarettes imported
11 into the United States to which the person has affixed the tax
12 stamp in the preceding month:

13 (1) a copy of:

14 (A) the permit issued pursuant to the Internal
15 Revenue Code, 26 U.S.C. 5713, to the person importing
16 the cigarettes into the United States allowing the
17 person to import the cigarettes; and

18 (B) the customs form containing, with respect to
19 the cigarettes, the internal revenue tax information
20 required by the U.S. Bureau of Alcohol, Tobacco and
21 Firearms;

22 (2) a statement, signed by the person under penalty of
23 perjury, which shall be treated as confidential by the
24 Department and exempt from disclosure under the Freedom of
25 Information Act, identifying the brand and brand styles of
26 all such cigarettes, the quantity of each brand style of

1 such cigarettes, the supplier of such cigarettes, and the
2 person or persons, if any, to whom such cigarettes have
3 been conveyed for resale; and a separate statement, signed
4 by the individual under penalty of perjury, which shall not
5 be treated as confidential or exempt from disclosure,
6 separately identifying the brands and brand styles of such
7 cigarettes; and

8 (3) a statement, signed by an officer of the
9 manufacturer or importer under penalty of perjury,
10 certifying that the manufacturer or importer has complied
11 with:

12 (A) the package health warning and ingredient
13 reporting requirements of the federal Cigarette
14 Labeling and Advertising Act, 15 U.S.C. 1333 and 1335a,
15 with respect to such cigarettes; and

16 (B) the provisions of Exhibit T of the Master
17 Settlement Agreement entered in the case of People of
18 the State of Illinois v. Philip Morris, et al. (Circuit
19 Court of Cook County, No. 96-L13146), including a
20 statement indicating whether the manufacturer is, or
21 is not, a participating tobacco manufacturer within
22 the meaning of Exhibit T.

23 (c) Administrative sanctions.

24 (1) Upon finding that a distributor, secondary
25 distributor, retailer, or person has committed any of the
26 acts prohibited by subsection (a), knowing or having reason

1 to know that he or she has done so, or upon finding that a
2 distributor or person has failed to comply with any
3 requirement of subsection (b), the Department may revoke or
4 suspend the license or licenses of any distributor, ~~or~~
5 secondary distributor, or retailer pursuant to the
6 procedures set forth in Section 6 and impose, on the
7 distributor, secondary distributor, retailer, or person, a
8 civil penalty in an amount not to exceed the greater of
9 500% of the retail value of the cigarettes involved or
10 \$5,000.

11 (2) Cigarettes that are acquired, held, owned,
12 possessed, transported in, imported into, or sold or
13 distributed in this State in violation of this Section
14 shall be deemed contraband under this Act and are subject
15 to seizure and forfeiture as provided in this Act, and all
16 such cigarettes seized and forfeited shall be destroyed or
17 maintained and used in an undercover capacity. Such
18 cigarettes shall be deemed contraband whether the
19 violation of this Section is knowing or otherwise.

20 (d) Unfair trade practices. In addition to any other
21 penalties provided for in this Act, a violation of subsection
22 (a) or subsection (b) of this Section shall constitute an
23 unlawful practice as provided in the Consumer Fraud and
24 Deceptive Business Practices Act.

25 (d-1) Retailers issued a license under Section 4g of this
26 Act and secondary distributors shall not be liable under

1 subsections (c)(1) and (d) of this Section for unknowingly
2 possessing, selling, or distributing to consumers or users
3 cigarettes identified in subsection (a)(1) of this Section if
4 the cigarettes possessed, sold, or distributed by the licensed
5 retailer or secondary distributor were obtained from a
6 distributor licensed under this Act.

7 (d-2) Criminal penalties. A distributor, secondary
8 distributor, retailer, or person who violates subsection (a),
9 or a distributor, secondary distributor, or person who violates
10 subsection (b) of this Section shall be guilty of a Class 4
11 felony.

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

21 (f) General provisions.

22 (1) This Section shall be enforced by the Department;
23 provided that, at the request of the Director of Revenue or
24 the Director's duly authorized agent, the State police and
25 all local police authorities shall enforce the provisions
26 of this Section. The Attorney General has concurrent power

1 with the State's Attorney of any county to enforce this
2 Section.

3 (2) For the purpose of enforcing this Section, the
4 Director of Revenue and any agency to which the Director
5 has delegated enforcement responsibility pursuant to
6 subdivision (f)(1) may request information from any State
7 or local agency and may share information with and request
8 information from any federal agency and any agency of any
9 other state or any local agency of any other state.

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

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

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

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

24 (h) Applicability.

25 (1) This Section does not apply to:

26 (A) cigarettes allowed to be imported or brought

1 into the United States for personal use; and

2 (B) cigarettes sold or intended to be sold as
3 duty-free merchandise by a duty-free sales enterprise
4 in accordance with the provisions of 19 U.S.C. 1555(b)
5 and any implementing regulations; except that this
6 Section shall apply to any such cigarettes that are
7 brought back into the customs territory for resale
8 within the customs territory.

9 (2) The penalties provided in this Section are in
10 addition to any other penalties imposed under other
11 provision of law.

12 (Source: P.A. 95-1053, eff. 1-1-10; 96-782, eff. 1-1-10;
13 96-1027, eff. 7-12-10.)

14 (35 ILCS 130/4d)

15 Sec. 4d. Sales of cigarettes to and by retailers. In-state
16 makers, manufacturers, and fabricators licensed as
17 distributors under Section 4 of this Act and out-of-state
18 makers, manufacturers, and fabricators holding permits under
19 Section 4b of this Act may not sell original packages of
20 cigarettes to retailers. A retailer who is licensed under
21 Section 4g of this Act may sell only original packages of
22 cigarettes obtained from manufacturer representatives,
23 licensed secondary distributors, or licensed distributors
24 other than in-state makers, manufacturers, or fabricators
25 licensed as distributors under Section 4 of this Act and

1 out-of-state makers, manufacturers, or fabricators holding
2 permits under Section 4b of this Act.

3 (Source: P.A. 96-782, eff. 1-1-10; 96-1027, eff. 7-12-10;
4 97-587, eff. 8-26-11.)

5 (35 ILCS 130/4e)

6 Sec. 4e. Sales of cigarettes to and by secondary
7 distributors. In-state makers, manufacturers, and fabricators
8 licensed as distributors under Section 4 of this Act and
9 out-of-state makers, manufacturers, and fabricators holding
10 permits under Section 4b of this Act may not sell original
11 packages of cigarettes to secondary distributors. A secondary
12 distributor may sell only original packages of cigarettes
13 obtained from licensed distributors other than in-state
14 makers, manufacturers, or fabricators licensed as distributors
15 under Section 4 of this Act and out-of-state makers,
16 manufacturers, or fabricators holding permits under Section 4b
17 of this Act. Secondary distributors may sell cigarettes to
18 Illinois retailers issued a license under Section 4g of this
19 Act for resale, and are also authorized to make retail sales of
20 cigarettes at the location on the secondary distributor's
21 license as long as the secondary distributor obtains a license
22 under Section 4g of the Cigarette Tax Act and sells 75% or more
23 of the cigarettes sold at such location to retailers issued a
24 license under Section 4g of this Act for resale. All sales by
25 secondary distributors to retailers issued a license under

1 Section 4g of this Act must be made at the location on the
2 secondary distributor's license. Retailers issued a license
3 under Section 4g of this Act must take possession of all
4 cigarettes sold by the secondary distributor at the secondary
5 distributor's licensed address. Secondary distributors may not
6 make deliveries of cigarettes to retailers.

7 Secondary distributors may not file a claim for credit or
8 refund with the State under Section 9d of this Act.

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

10 (35 ILCS 130/4f)

11 Sec. 4f. Manufacturer representatives.

12 (a) No manufacturer may market cigarettes produced by the
13 manufacturer directly to retailers in this State issued a
14 license under Section 4g of this Act without first having
15 obtained authorization from the Department. Application for
16 authority to maintain representatives in this State to market
17 in this State cigarettes produced by the manufacturer shall be
18 made to the Department on a form furnished and prescribed by
19 the Department. Each applicant under this Section shall furnish
20 the following information to the Department on a form signed
21 and verified by the applicant under penalty of perjury:

22 (1) the name and address of the applicant;

23 (2) the address of every location from which the
24 applicant proposes to engage in business in this State;

25 (3) the number of manufacturer representatives the

1 applicant requests to maintain in this State; and

2 (4) any other additional information as the Department
3 may reasonably require.

4 The following manufacturers are ineligible to receive
5 authorization to maintain manufacturer representatives in this
6 State:

7 (1) a manufacturer who owes, at the time of
8 application, any delinquent cigarette taxes that have been
9 determined by law to be due and unpaid, unless the
10 applicant has entered into an agreement approved by the
11 Department to pay the amount due;

12 (2) a manufacturer who has had a license revoked within
13 the past 2 years for misconduct relating to stolen or
14 contraband cigarettes or has been convicted of a state or
15 federal crime, punishable by imprisonment of one year or
16 more, relating to stolen or contraband cigarettes;

17 (3) a manufacturer who has been found, after notice and
18 a hearing, to have imported or caused to be imported into
19 the United States for sale or distribution any cigarette in
20 violation of 19 U.S.C. 1681a;

21 (4) a manufacturer who has been found, after notice and
22 a hearing, to have imported or caused to be imported into
23 the United States for sale or distribution or manufactured
24 for sale or distribution in the United States any cigarette
25 that does not fully comply with the Federal Cigarette
26 Labeling and Advertising Act (15 U.S.C. 1331, et seq.);

1 (5) a manufacturer who has been found, after notice and
2 a hearing, to have made a material false statement in an
3 application or has failed to produce records required to be
4 maintained by this Act;

5 (6) a manufacturer who has been found, after notice and
6 hearing, to have violated any Section of this Act; or

7 (7) a manufacturer licensed as a distributor under
8 Section 4 of this Act or holding a permit under Section 4b
9 of this Act.

10 The Department, upon receipt of an application from a
11 manufacturer who is eligible to maintain manufacturer
12 representatives in this State, shall notify the applicant in
13 writing, not more than 60 days after an application has been
14 received, that the applicant may or may not maintain the
15 requested number of manufacturer representatives in this
16 State. A copy of the notice authorizing a manufacturer to
17 maintain manufacturer representatives in this State shall be
18 available for inspection by the Department at each place of
19 business identified in the application and in the motor vehicle
20 operated by marketing representatives in the course of
21 performing his or her duties in this State on behalf of the
22 manufacturer.

23 A manufacturer representative shall notify the Department
24 of any change in the information contained on the application
25 form and shall do so within 30 days after any such change.

26 (b) Only directors, officers, and employees of the

1 manufacturer may act as manufacturer representatives in this
2 State. The manufacturer shall provide to the Department the
3 names and addresses of the manufacturer representatives
4 operating in this State and the make, model, and license plate
5 number of each motor vehicle operated by a manufacturer
6 representative in the course of performing his or her duties in
7 this State on behalf of the manufacturer. The following
8 individuals may not act as manufacturer representatives:

9 (1) an individual who owes any delinquent cigarette
10 taxes that have been determined by law to be due and
11 unpaid, unless the individual has entered into an agreement
12 approved by the Department to pay the amount due;

13 (2) an individual who has had a license revoked within
14 the past 2 years for misconduct relating to stolen or
15 contraband cigarettes or has been convicted of a state or
16 federal crime, punishable by imprisonment of one year or
17 more, relating to stolen or contraband cigarettes;

18 (3) an individual who has been found, after notice and
19 a hearing, to have made a material false statement in an
20 application or has failed to produce records required to be
21 maintained by this Act; or

22 (4) an individual who has been found, after notice and
23 hearing, to have violated any Section of this Act.

24 (c) Manufacturer representatives may sell to retailers in
25 this State who are licensed under Section 4g of this Act only
26 original packages of cigarettes made, manufactured, or

1 fabricated by the manufacturer and purchased or obtained from a
2 distributor licensed under this Act, or the Cigarette Tax Use
3 Act, and on which tax stamps have been affixed. Manufacturer
4 representatives may sell up to 600 stamped original packages of
5 cigarettes in a calendar year, for the purpose of promoting the
6 manufacturer's brands of cigarettes. A manufacturer
7 representative may not possess more than 500 stamped original
8 packages of cigarettes made, manufactured, or fabricated by the
9 manufacturer and purchased or obtained from a distributor
10 licensed under this Act or the Cigarette Use Tax Act. Any
11 original packages of cigarettes in the possession of a
12 manufacturer representative that (i) are not made,
13 manufactured, or fabricated by the manufacturer and purchased
14 or obtained from a distributor licensed under this Act or the
15 Cigarette Use Tax Act, other than cigarettes for personal use
16 and consumption, (ii) exceed the maximum quantity of 500
17 original packages of cigarettes, excluding packages of
18 cigarettes for personal use and consumption; (iii) violate
19 Section 3-10 of this Act; or (iv) do not have the proper tax
20 stamps affixed, are contraband and subject to seizure and
21 forfeiture.

22 Manufacturer representatives may sell, on behalf of
23 licensed distributors, stamped original packages of cigarettes
24 to retailers who are licensed under Section 4g of this Act ~~on~~
25 ~~behalf of licensed distributors~~. The manufacturer
26 representative shall provide the distributor with a signed

1 receipt for the cigarettes obtained from the distributor. The
2 distributor shall invoice the licensed retailer, and the
3 licensed retailer shall pay the distributor for all cigarettes
4 provided to licensed retailers by manufacturer representatives
5 on behalf of a distributor.

6 Manufacturer representatives may sell stamped original
7 packages of cigarettes to licensed retailers that are purchased
8 from licensed distributors. Distributors shall provide
9 manufacturer representatives with invoices for stamped
10 original packages of cigarettes sold to manufacturer
11 representatives. Manufacturer representatives shall invoice
12 licensed retailers, and the licensed retailers shall pay the
13 manufacturer representatives for all original packages of
14 cigarettes sold to licensed retailers.

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

26 (Source: P.A. 97-587, eff. 8-26-11.)

1 (35 ILCS 130/4g new)

2 Sec. 4g. Retailer's license. Beginning on January 1, 2016,
3 no person may engage in business as a retailer of cigarettes in
4 this State without first having obtained a license from the
5 Department. Application for license shall be made to the
6 Department, by electronic means, in a form prescribed by the
7 Department. Each applicant for a license under this Section
8 shall furnish to the Department, in an electronic format
9 established by the Department, the following information:

10 (1) the name and address of the applicant;

11 (2) the address of the location at which the applicant
12 proposes to engage in business as a retailer of cigarettes
13 in this State; and

14 (3) such other additional information as the
15 Department may lawfully require by its rules and
16 regulations.

17 The annual license fee payable to the Department for each
18 retailer's license shall be \$75. The fee shall be deposited
19 into the Tax Compliance and Administration Fund and shall be
20 for the cost of tobacco retail inspection and contraband
21 tobacco and tobacco smuggling with at least two-thirds of the
22 money being used for contraband tobacco and tobacco smuggling
23 operations and enforcement.

24 Each applicant for a license shall pay the fee to the
25 Department at the time of submitting its application for a

1 license to the Department. The Department shall require an
2 applicant for a license under this Section to electronically
3 file and pay the fee.

4 A separate annual license fee shall be paid for each place
5 of business at which a person who is required to procure a
6 retailer's license under this Section proposes to engage in
7 business as a retailer in Illinois under this Act.

8 The following are ineligible to receive a retailer's
9 license under this Act:

10 (1) a person who has been convicted of a felony related
11 to the illegal transportation, sale, or distribution of
12 cigarettes, or a tobacco-related felony, under any federal
13 or State law, if the Department, after investigation and a
14 hearing if requested by the applicant, determines that the
15 person has not been sufficiently rehabilitated to warrant
16 the public trust; or

17 (2) a corporation, if any officer, manager, or director
18 thereof, or any stockholder or stockholders owning in the
19 aggregate more than 5% of the stock of such corporation,
20 would not be eligible to receive a license under this Act
21 for any reason.

22 The Department, upon receipt of an application and license
23 fee, in proper form, from a person who is eligible to receive a
24 retailer's license under this Act, shall issue to such
25 applicant a license in form as prescribed by the Department.
26 That license shall permit the applicant to whom it is issued to

1 engage in business as a retailer under this Act at the place
2 shown in his or her application. All licenses issued by the
3 Department under this Section shall be valid for a period not
4 to exceed one year after issuance unless sooner revoked,
5 canceled, or suspended as provided in this Act. No license
6 issued under this Section is transferable or assignable. The
7 license shall be conspicuously displayed in the place of
8 business conducted by the licensee in Illinois under such
9 license. The Department shall not issue a retailer's license to
10 a retailer unless the retailer is also registered under the
11 Retailers' Occupation Tax Act. A person who obtains a license
12 as a retailer who ceases to do business as specified in the
13 license, or who never commenced business, or who obtains a
14 distributor's license, or whose license is suspended or
15 revoked, shall immediately surrender the license to the
16 Department.

17 Any person aggrieved by any decision of the Department
18 under this subsection may, within 30 days after notice of the
19 decision, protest and request a hearing. Upon receiving a
20 request for a hearing, the Department shall give written notice
21 to the person requesting the hearing of the time and place
22 fixed for the hearing and shall hold a hearing in conformity
23 with the provisions of this Act and then issue its final
24 administrative decision in the matter to that person. In the
25 absence of a protest and request for a hearing within 30 days,
26 the Department's decision shall become final without any

1 further determination being made or notice given.

2 (35 ILCS 130/4h new)

3 Sec. 4h. Purchases of cigarettes by licensed retailers. A
4 person who possesses a retailer's license under Section 4g of
5 this Act shall obtain cigarettes for sale only from a licensed
6 distributor, secondary distributor, or manufacturer
7 representative.

8 (35 ILCS 130/6) (from Ch. 120, par. 453.6)

9 Sec. 6. Revocation, cancellation, or suspension of
10 license. The Department may, after notice and hearing as
11 provided for by this Act, revoke, cancel or suspend the license
12 of any distributor, ~~or~~ secondary distributor, or retailer for
13 the violation of any provision of this Act, or for
14 noncompliance with any provision herein contained, or for any
15 noncompliance with any lawful rule or regulation promulgated by
16 the Department under Section 8 of this Act, or because the
17 licensee is determined to be ineligible for a distributor's
18 license for any one or more of the reasons provided for in
19 Section 4 of this Act, or because the licensee is determined to
20 be ineligible for a secondary distributor's license for any one
21 or more of the reasons provided for in Section 4c of this Act, or
22 because the licensee is determined to be ineligible for a
23 retailer's license for any one or more of the reasons provided
24 for in Section 4g of this Act. However, no such license shall

1 be revoked, cancelled or suspended, except after a hearing by
2 the Department with notice to the distributor, ~~or~~ secondary
3 distributor, or retailer, as aforesaid, and affording such
4 distributor, ~~or~~ secondary distributor, or retailer a
5 reasonable opportunity to appear and defend, and any
6 distributor, ~~or~~ secondary distributor, or retailer aggrieved
7 by any decision of the Department with respect thereto may have
8 the determination of the Department judicially reviewed, as
9 herein provided.

10 The Department may revoke, cancel, or suspend the license
11 of any distributor for a violation of the Tobacco Product
12 Manufacturers' Escrow Enforcement Act as provided in Section 30
13 of that Act. The Department may revoke, cancel, or suspend the
14 license of any secondary distributor for a violation of
15 subsection (e) of Section 15 of the Tobacco Product
16 Manufacturers' Escrow Enforcement Act.

17 If the retailer has a training program that facilitates
18 compliance with minimum-age tobacco laws, the Department shall
19 suspend for 3 days the license of that retailer for a fourth or
20 subsequent violation of the Prevention of Tobacco Use by Minors
21 and Sale and Distribution of Tobacco Products Act, as provided
22 in subsection (a) of Section 2 of that Act. For the purposes of
23 this Section, any violation of subsection (a) of Section 2 of
24 the Prevention of Tobacco Use by Minors and Sale and
25 Distribution of Tobacco Products Act occurring at the
26 retailer's licensed location during a 24-month period shall be

1 counted as a violation against the retailer.

2 If the retailer does not have a training program that
3 facilitates compliance with minimum-age tobacco laws, the
4 Department shall suspend for 3 days the license of that
5 retailer for a second violation of the Prevention of Tobacco
6 Use by Minors and Sale and Distribution of Tobacco Products
7 Act, as provided in subsection (a-5) of Section 2 of that Act.

8 If the retailer does not have a training program that
9 facilitates compliance with minimum-age tobacco laws, the
10 Department shall suspend for 7 days the license of that
11 retailer for a third violation of the Prevention of Tobacco Use
12 by Minors and Sale and Distribution of Tobacco Products Act, as
13 provided in subsection (a-5) of Section 2 of that Act.

14 If the retailer does not have a training program that
15 facilitates compliance with minimum-age tobacco laws, the
16 Department shall suspend for 30 days the license of a retailer
17 for a fourth or subsequent violation of the Prevention of
18 Tobacco Use by Minors and Sale and Distribution of Tobacco
19 Products Act, as provided in subsection (a-5) of Section 2 of
20 that Act.

21 A training program that facilitates compliance with
22 minimum-age tobacco laws must include at least the following
23 elements: (i) it must explain that only individuals displaying
24 valid identification demonstrating that they are 18 years of
25 age or older shall be eligible to purchase cigarettes or
26 tobacco products; (ii) it must explain where a clerk can check

1 identification for a date of birth; and (iii) it must explain
2 the penalties that a clerk and retailer are subject to for
3 violations of the Prevention of Tobacco Use by Minors and Sale
4 and Distribution of Tobacco Products Act.

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

20 No license so revoked, as aforesaid, shall be reissued to
21 any such distributor, ~~or~~ secondary distributor, or retailer
22 within a period of 6 months after the date of the final
23 determination of such revocation. No such license shall be
24 reissued at all so long as the person who would receive the
25 license is ineligible to receive a distributor's license under
26 this Act for any one or more of the reasons provided for in

1 Section 4 of this Act, ~~or~~ is ineligible to receive a secondary
2 distributor's license under this Act for any one or more of the
3 reasons provided for in Section 4c of this Act, or is
4 determined to be ineligible for a retailer's license under the
5 Act for any one or more of the reasons provided for in Section
6 4g of this Act.

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

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

13 (35 ILCS 130/7) (from Ch. 120, par. 453.7)

14 Sec. 7. The Department or any officer or employee of the
15 Department designated, in writing, by the Director thereof,
16 shall at its or his or her own instance, or on the written
17 request of any distributor, secondary distributor, retailer,
18 manufacturer with authority to maintain manufacturer
19 representatives, or other interested party to the proceeding,
20 issue subpoenas requiring the attendance of and the giving of
21 testimony by witnesses, and subpoenas duces tecum requiring the
22 production of books, papers, records or memoranda. All
23 subpoenas and subpoenas duces tecum issued under the terms of
24 this Act may be served by any person of full age. The fees of
25 witnesses for attendance and travel shall be the same as the

1 fees of witnesses before the circuit court of this State; such
2 fees to be paid when the witness is excused from further
3 attendance. When the witness is subpoenaed at the instance of
4 the Department or any officer or employee thereof, such fees
5 shall be paid in the same manner as other expenses of the
6 Department, and when the witness is subpoenaed at the instance
7 of any other party to any such proceeding, the cost of service
8 of the subpoena or subpoena duces tecum and the fee of the
9 witness shall be borne by the party at whose instance the
10 witness is summoned. In such case the Department, in its
11 discretion, may require a deposit to cover the cost of such
12 service and witness fees. A subpoena or subpoena duces tecum so
13 issued shall be served in the same manner as a subpoena or
14 subpoena duces tecum issued out of a court.

15 Any circuit court of this State, upon the application of
16 the Department or any officer or employee thereof, or upon the
17 application of any other party to the proceeding, may, in its
18 discretion, compel the attendance of witnesses, the production
19 of books, papers, records or memoranda and the giving of
20 testimony before the Department or any officer or employee
21 thereof conducting an investigation or holding a hearing
22 authorized by this Act, by an attachment for contempt, or
23 otherwise, in the same manner as production of evidence may be
24 compelled before the court.

25 The Department or any officer or employee thereof, or any
26 other party in an investigation or hearing before the

1 Department, may cause the depositions of witnesses within the
2 State to be taken in the manner prescribed by law for like
3 depositions, or depositions for discovery in civil actions in
4 courts of this State, and to that end compel the attendance of
5 witnesses and the production of books, papers, records or
6 memoranda, in the same manner hereinbefore provided.

7 (Source: P.A. 96-1027, eff. 7-12-10; 97-587, eff. 8-26-11.)

8 (35 ILCS 130/8) (from Ch. 120, par. 453.8)

9 Sec. 8. The Department may make, promulgate and enforce
10 such reasonable rules and regulations relating to the
11 administration and enforcement of this Act as may be deemed
12 expedient.

13 Whenever notice is required by this Act, such notice may be
14 given by United States certified or registered mail, addressed
15 to the person concerned at his last known address, and proof of
16 such mailing shall be sufficient for the purposes of this Act.
17 Notice of any hearing provided for by this Act and held before
18 the Department shall be so given not less than 7 days prior to
19 the day fixed for the hearing.

20 Hearings provided for in this Act, other than hearings
21 before the Illinois Independent Tax Tribunal, shall be held:

22 (1) In Cook County, if the taxpayer's or licensee's
23 principal place of business is in that county;

24 (2) At the Department's office nearest the taxpayer's
25 or licensee's principal place of business, if the

1 taxpayer's or licensee's principal place of business is in
2 Illinois but outside Cook County;

3 (3) In Sangamon County, if the taxpayer's or licensee's
4 principal place of business is outside Illinois.

5 The Circuit Court of the County wherein the hearing is held
6 has power to review all final administrative decisions of the
7 Department in administering this Act. The provisions of the
8 Administrative Review Law, and all amendments and
9 modifications thereof, and the rules adopted pursuant thereto,
10 shall apply to and govern all proceedings for the judicial
11 review of final administrative decisions of the Department
12 under this Act. The term "administrative decision" is defined
13 as in Section 3-101 of the Code of Civil Procedure.

14 Service upon the Director of Revenue or Assistant Director
15 of Revenue of summons issued in any action to review a final
16 administrative decision shall be service upon the Department.
17 The Department shall certify the record of its proceedings if
18 the distributor, secondary distributor, retailer, or
19 manufacturer with authority to maintain manufacturer
20 representatives pays to it the sum of 75¢ per page of testimony
21 taken before the Department and 25¢ per page of all other
22 matters contained in such record, except that these charges may
23 be waived where the Department is satisfied that the aggrieved
24 party is a poor person who cannot afford to pay such charges.
25 Before the delivery of such record to the person applying for
26 it, payment of these charges must be made, and if the record is

1 not paid for within 30 days after notice that such record is
2 available, the complaint may be dismissed by the court upon
3 motion of the Department.

4 No stay order shall be entered by the Circuit Court unless
5 the distributor, secondary distributor, retailer, or
6 manufacturer with authority to maintain manufacturer
7 representatives files with the court a bond in an amount fixed
8 and approved by the court, to indemnify the State against all
9 loss and injury which may be sustained by it on account of the
10 review proceedings and to secure all costs which may be
11 occasioned by such proceedings.

12 Whenever any proceeding provided by this Act is begun
13 before the Department, either by the Department or by a person
14 subject to this Act, and such person thereafter dies or becomes
15 a person under legal disability before such proceeding is
16 concluded, the legal representative of the deceased person or
17 of the person under legal disability shall notify the
18 Department of such death or legal disability. Such legal
19 representative, as such, shall then be substituted by the
20 Department for such person. If the legal representative fails
21 to notify the Department of his or her appointment as such
22 legal representative, the Department may, upon its own motion,
23 substitute such legal representative in the proceeding pending
24 before the Department for the person who died or became a
25 person under legal disability.

26 Hearings to contest an administrative decision under this

1 Act conducted as a result of a protest filed with the Illinois
2 Independent Tax Tribunal on or after July 1, 2013 shall be
3 conducted pursuant to the provisions of the Illinois
4 Independent Tax Tribunal Act of 2012.

5 (Source: P.A. 96-1027, eff. 7-12-10; 97-587, eff. 8-26-11;
6 97-1129, eff. 8-28-12.)

7 (35 ILCS 130/10) (from Ch. 120, par. 453.10)

8 Sec. 10. The Department, or any officer or employee
9 designated in writing by the Director thereof, for the purpose
10 of administering and enforcing the provisions of this Act, may
11 hold investigations and, except as otherwise provided in the
12 Illinois Independent Tax Tribunal Act of 2012, may hold
13 hearings concerning any matters covered by this Act, and may
14 examine books, papers, records or memoranda bearing upon the
15 sale or other disposition of cigarettes by a distributor,
16 secondary distributor, retailer, manufacturer with authority
17 to maintain manufacturer representatives under Section 4f of
18 this Act, or manufacturer representative, and may issue
19 subpoenas requiring the attendance of a distributor, secondary
20 distributor, retailer, manufacturer with authority to maintain
21 manufacturer representatives under Section 4f of this Act, or
22 manufacturer representative, or any officer or employee of a
23 distributor, secondary distributor, retailer, manufacturer
24 with authority to maintain manufacturer representatives under
25 Section 4f of this Act, or any person having knowledge of the

1 facts, and may take testimony and require proof, and may issue
2 subpoenas duces tecum to compel the production of relevant
3 books, papers, records and memoranda, for the information of
4 the Department.

5 All hearings to contest administrative decisions of the
6 Department conducted as a result of a protest filed with the
7 Illinois Independent Tax Tribunal on or after July 1, 2013
8 shall be subject to the provisions of the Illinois Independent
9 Tax Tribunal Act of 2012.

10 In the conduct of any investigation or hearing provided for
11 by this Act, neither the Department, nor any officer or
12 employee thereof, shall be bound by the technical rules of
13 evidence, and no informality in the proceedings nor in the
14 manner of taking testimony shall invalidate any rule, order,
15 decision or regulation made, approved or confirmed by the
16 Department.

17 The Director of Revenue, or any duly authorized officer or
18 employee of the Department, shall have the power to administer
19 oaths to such persons required by this Act to give testimony
20 before the said Department.

21 The books, papers, records and memoranda of the Department,
22 or parts thereof, may be proved in any hearing, investigation
23 or legal proceeding by a reproduced copy thereof under the
24 certificate of the Director of Revenue. Such reproduced copy
25 shall, without further proof, be admitted into evidence before
26 the Department or in any legal proceeding.

1 (Source: P.A. 96-1027, eff. 7-12-10; 97-587, eff. 8-26-11;
2 97-1129, eff. 8-28-12.)

3 (35 ILCS 130/11) (from Ch. 120, par. 453.11)

4 Sec. 11. Every distributor of cigarettes, who is required
5 to procure a license under this Act, shall keep within
6 Illinois, at his licensed address, complete and accurate
7 records of cigarettes held, purchased, manufactured, brought
8 in or caused to be brought in from without the State, and sold,
9 or otherwise disposed of, and shall preserve and keep within
10 Illinois at his licensed address all invoices, bills of lading,
11 sales records, copies of bills of sale, inventory at the close
12 of each period for which a return is required of all cigarettes
13 on hand and of all cigarette revenue stamps, both affixed and
14 unaffixed, and other pertinent papers and documents relating to
15 the manufacture, purchase, sale or disposition of cigarettes.
16 Every sales invoice issued by a licensed distributor to a
17 retailer in this State shall contain the distributor's
18 cigarette distributor license number. All books and records and
19 other papers and documents that are required by this Act to be
20 kept shall be kept in the English language, and shall, at all
21 times during the usual business hours of the day, be subject to
22 inspection by the Department or its duly authorized agents and
23 employees. The Department may adopt rules that establish
24 requirements, including record forms and formats, for records
25 required to be kept and maintained by taxpayers. For purposes

1 of this Section, "records" means all data maintained by the
2 taxpayer, including data on paper, microfilm, microfiche or any
3 type of machine-sensible data compilation. Those books,
4 records, papers and documents shall be preserved for a period
5 of at least 3 years after the date of the documents, or the
6 date of the entries appearing in the records, unless the
7 Department, in writing, authorizes their destruction or
8 disposal at an earlier date. At all times during the usual
9 business hours of the day any duly authorized agent or employee
10 of the Department may enter any place of business of the
11 distributor, without a search warrant, and inspect the premises
12 and the stock or packages of cigarettes and the vending devices
13 therein contained, to determine whether any of the provisions
14 of this Act are being violated. If such agent or employee is
15 denied free access or is hindered or interfered with in making
16 such examination as herein provided, the license of the
17 distributor at such premises shall be subject to revocation by
18 the Department.

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

20 (35 ILCS 130/11a)

21 Sec. 11a. Secondary distributors; records. Every secondary
22 distributor of cigarettes, who is required to procure a license
23 under this Act, shall keep within Illinois, at his licensed
24 address, complete and accurate records of cigarettes held,
25 purchased, brought in from without the State, and sold, or

1 otherwise disposed of, and shall preserve and keep within
2 Illinois at his licensed address all invoices, bills of lading,
3 sales records, copies of bills of sale, inventory at the close
4 of each period for which a report is required of all cigarettes
5 on hand, and other pertinent papers and documents relating to
6 the purchase, sale, or disposition of cigarettes. Every sales
7 invoice issued by a secondary distributor to a retailer in this
8 State shall contain the distributor's secondary distributor
9 license number. All books and records and other papers and
10 documents that are required by this Act to be kept shall be
11 kept in the English language, and shall, at all times during
12 the usual business hours of the day, be subject to inspection
13 by the Department or its duly authorized agents and employees.
14 The Department may adopt rules that establish requirements,
15 including record forms and formats, for records required to be
16 kept and maintained by secondary distributors. For purposes of
17 this Section, "records" means all data maintained by the
18 secondary distributors, including data on paper, microfilm,
19 microfiche or any type of machine sensible data compilation.
20 Those books, records, papers, and documents shall be preserved
21 for a period of at least 3 years after the date of the
22 documents, or the date of the entries appearing in the records,
23 unless the Department, in writing, authorizes their
24 destruction or disposal at an earlier date. At all times during
25 the usual business hours of the day any duly authorized agent
26 or employee of the Department may enter any place of business

1 of the secondary distributor without a search warrant and may
2 inspect the premises and the stock or packages of cigarettes
3 therein contained to determine whether any of the provisions of
4 this Act are being violated. If such agent or employee is
5 denied free access or is hindered or interfered with in making
6 such examination as herein provided, the license of the
7 secondary distributor at such premises shall be subject to
8 revocation by the Department.

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

10 (35 ILCS 130/11b)

11 Sec. 11b. Manufacturer representatives; records. Every
12 manufacturer with authority to maintain manufacturer
13 representatives under Section 4f of this Act shall keep within
14 Illinois, at his business address identified under Section 4f
15 of this Act, complete and accurate records of cigarettes
16 purchased, sold, or otherwise disposed of, and shall preserve
17 and keep within Illinois at his business address all invoices,
18 sales records, copies of bills of sale, inventory at the close
19 of each period for which a report is required of all cigarettes
20 on hand, and other pertinent papers and documents relating to
21 the purchase, sale, or disposition of cigarettes. Every sales
22 invoice issued by a manufacturer representative to a retailer
23 in this State shall contain the manufacturer's manufacturer
24 representative license number. All books and records and other
25 papers and documents that are required by this Act to be kept

1 shall be kept in the English language, and shall, at all times
2 during the usual business hours of the day, be subject to
3 inspection by the Department or its duly authorized agents and
4 employees. The Department may adopt rules that establish
5 requirements, including record forms and formats, for records
6 required to be kept and maintained by manufacturers with
7 authority to maintain manufacturer representatives under
8 Section 4f of this Act and their manufacturer representatives.
9 For purposes of this Section, "records" means all data
10 maintained by the manufacturers with authority to maintain
11 manufacturer representatives under Section 4f of this Act and
12 their manufacturer representatives, including data on paper,
13 microfilm, microfiche or any type of machine sensible data
14 compilation. Those books, records, papers, and documents shall
15 be preserved for a period of at least 3 years after the date of
16 the documents, or the date of the entries appearing in the
17 records, unless the Department, in writing, authorizes their
18 destruction or disposal at an earlier date. At all times during
19 the usual business hours of the day, any duly authorized agent
20 or employee of the Department may enter any place of business
21 of the manufacturers with authority to maintain manufacturer
22 representatives under Section 4f of this Act and their
23 manufacturer representatives, or inspect any motor vehicle
24 used by a manufacturer representative in the course of
25 business, without a search warrant and may inspect the
26 premises, motor vehicle, and any packages of cigarettes therein

1 contained to determine whether any of the provisions of this
2 Act are being violated. If such agent or employee is denied
3 free access or is hindered or interfered with in making such
4 examination as herein provided, the ability to maintain
5 marketing representatives in Illinois may be withdrawn by the
6 Department.

7 (Source: P.A. 97-587, eff. 8-26-11.)

8 (35 ILCS 130/11c new)

9 Sec. 11c. Retailers; records. Every retailer who is
10 required to procure a license under this Act shall keep within
11 Illinois complete and accurate records of cigarettes
12 purchased, sold, or otherwise disposed of. It shall be the duty
13 of every retail licensee to make sales records, copies of bills
14 of sale, and inventory at the close of each period for which a
15 report is required of all cigarettes on hand available upon
16 reasonable notice for the purpose of investigation and control
17 by the Department. Such records need not be maintained on the
18 licensed premises, but must be maintained in the State of
19 Illinois; however, if access is available electronically, the
20 records may be maintained out of state. However, all original
21 invoices or copies thereof covering purchases of cigarettes
22 must be retained on the licensed premises for a period of 90
23 days after such purchase, unless the Department has granted a
24 waiver in response to a written request in cases where records
25 are kept at a central business location within the State of

1 Illinois or in cases where records that are available
2 electronically are maintained out of state. The Department may
3 adopt rules that establish requirements, including record
4 forms and formats, for records required to be kept and
5 maintained by the retailer.

6 For purposes of this Section, "records" means all data
7 maintained by the retailer, including data on paper, microfilm,
8 microfiche or any type of machine sensible data compilation.
9 Those books, records, papers, and documents shall be preserved
10 for a period of at least 3 years after the date of the
11 documents, or the date of the entries appearing in the records,
12 unless the Department, in writing, authorizes their
13 destruction or disposal at an earlier date. At all times during
14 the usual business hours of the day, any duly authorized agent
15 or employee of the Department may enter any place of business
16 of the retailer without a search warrant and may inspect the
17 premises to determine whether any of the provisions of this Act
18 are being violated. If such agent or employee is denied free
19 access or is hindered or interfered with in making such
20 examination as herein provided, the license of the retailer
21 shall be subject to suspension or revocation by the Department.

22 (35 ILCS 130/23) (from Ch. 120, par. 453.23)

23 Sec. 23. Every distributor, secondary distributor,
24 retailer, manufacturer with authority to maintain manufacturer
25 representatives under Section 4f of this Act and their

1 manufacturer representatives, or other person who shall
2 knowingly and wilfully sell or offer for sale any original
3 package, as defined in this Act, having affixed thereto any
4 fraudulent, spurious, imitation or counterfeit stamp, or stamp
5 which has been previously affixed, or affixes a stamp which has
6 previously been affixed to an original package, or who shall
7 knowingly and wilfully sell or offer for sale any original
8 package, as defined in this Act, having imprinted thereon
9 underneath the sealed transparent wrapper thereof any
10 fraudulent, spurious, imitation or counterfeit tax imprint,
11 shall be deemed guilty of a Class 2 felony.

12 (Source: P.A. 96-1027, eff. 7-12-10; 97-587, eff. 8-26-11.)

13 (35 ILCS 130/24) (from Ch. 120, par. 453.24)

14 Sec. 24. Punishment for sale or possession of packages of
15 contraband cigarettes.

16 (a) Possession or sale of 100 or less packages of
17 contraband cigarettes. With the exception of licensed
18 distributors, licensed secondary distributors, or licensed
19 transporters, as defined in Section 9c of this Act, any person
20 who has in his or her possession or sells 100 or less original
21 packages of contraband cigarettes is guilty of a Class A
22 misdemeanor and a Class 4 felony for each subsequent offense
23 occurring within 12 months of a prior offense.

24 (b) Possession or sale of more than 100 but less than 251
25 packages of contraband cigarettes. With the exception of

1 licensed distributors, licensed secondary distributors, or
2 licensed transporters, as defined in Section 9c of this Act,
3 any person who has in his or her possession or sells more than
4 100 but less than 251 original packages of contraband
5 cigarettes is guilty of a Class A misdemeanor for a first
6 offense and a Class 4 felony for each subsequent offense.

7 (c) Possession or sale of more than 250 but less than 1,001
8 packages of contraband cigarettes. With the exception of
9 licensed distributors, licensed secondary distributors, or
10 licensed transporters, as defined in Section 9c of this Act,
11 any person who has in his or her possession or sells more than
12 250 but less than 1,001 original packages of contraband
13 cigarettes is guilty of a Class 4 felony.

14 (d) Possession or sale of more than 1,000 packages of
15 contraband cigarettes. With the exception of licensed
16 distributors, licensed secondary distributors, or licensed
17 transporters, as defined in Section 9c of this Act, any person
18 who has in his or her possession or sells more than 1,000
19 original packages of contraband cigarettes is guilty of a Class
20 3 felony.

21 (e) Any person licensed as a distributor, secondary
22 distributor, or transporter, as defined in Section 9c of this
23 Act, who has in his or her possession or sells 100 or less
24 original packages of contraband cigarettes is guilty of a Class
25 A misdemeanor and a Class 4 felony for each subsequent offense
26 occurring within 12 months of a prior offense.

1 (f) Any person licensed as a distributor, secondary
2 distributor, or transporter, as defined in Section 9c of this
3 Act, who has in his or her possession or sells more than 100
4 original packages of contraband cigarettes is guilty of a Class
5 4 felony.

6 (g) Notwithstanding subsections (e) through (f), licensed
7 distributors and transporters, as defined in Section 9c of this
8 Act, may possess unstamped packages of cigarettes.
9 Notwithstanding subsections (e) through (f), licensed
10 distributors may possess cigarettes that bear a tax stamp of
11 another state or taxing jurisdiction. Notwithstanding
12 subsections (e) through (f), a licensed distributor or licensed
13 secondary distributor may possess contraband cigarettes
14 returned to the distributor or licensed secondary distributor
15 by a retailer if the distributor or licensed secondary
16 distributor immediately conducts an inventory of the
17 cigarettes being returned, the distributor or licensed
18 secondary distributor and the retailer returning the
19 contraband cigarettes sign the inventory, the distributor or
20 licensed secondary distributor provides a copy of the signed
21 inventory to the retailer, and the distributor retains the
22 inventory in its books and records and promptly notifies the
23 Department of Revenue.

24 (h) Notwithstanding subsections (a) through (d) of this
25 Section, a retailer unknowingly possessing contraband
26 cigarettes obtained from a licensed distributor or licensed

1 secondary distributor or knowingly possessing contraband
2 cigarettes obtained from a licensed distributor is not subject
3 to penalties under this Section if the retailer, within 48
4 hours after discovering that the cigarettes are contraband
5 cigarettes, excluding Saturdays, Sundays, and holidays: (i)
6 notifies the Department and the licensed distributor or
7 licensed secondary distributor from whom the cigarettes were
8 obtained, orally and in writing, that he or she possesses
9 contraband cigarettes obtained from a licensed distributor or
10 licensed secondary distributor; (ii) places the contraband
11 cigarettes in one or more containers and seals those
12 containers; and (iii) places on the containers the following or
13 similar language: "Contraband Cigarettes. Not For Sale." All
14 contraband cigarettes in the possession of a retailer remain
15 subject to forfeiture under the provisions of this Act.

16 Any retailer who knowingly possesses packages of
17 cigarettes with a counterfeit stamp with intent to sell is
18 guilty of a Class 2 felony. Any retailer who knowingly
19 possesses unstamped packages of cigarettes with intent to sell
20 is guilty of a Class 4 felony. A retailer shall not be liable
21 for unknowingly possessing, selling, or distributing to
22 consumers cigarettes that contain an old stamp if the correct
23 tax was collected at the point of sale and the cigarettes were
24 obtained from a distributor licensed under this Act.

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

1 (35 ILCS 130/26) (from Ch. 120, par. 453.26)

2 Sec. 26. Whoever acts as a distributor, ~~or~~ secondary
3 distributor, retailer, or manufacturer representative of
4 original packages without having a license, as required by this
5 Act, shall be guilty of a Class 4 felony.

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

7 Section 15. The Cigarette Use Tax Act is amended by
8 changing Sections 3-10, 4d, 4e, 28, and 30 as follows:

9 (35 ILCS 135/3-10)

10 Sec. 3-10. Cigarette enforcement.

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

12 (1) to sell or distribute in this State; to acquire,
13 hold, own, possess, or transport, for sale or distribution
14 in this State; or to import, or cause to be imported into
15 this State for sale or distribution in this State:

16 (A) any cigarettes the package of which:

17 (i) bears any statement, label, stamp,
18 sticker, or notice indicating that the
19 manufacturer did not intend the cigarettes to be
20 sold, distributed, or used in the United States,
21 including but not limited to labels stating "For
22 Export Only", "U.S. Tax Exempt", "For Use Outside
23 U.S.", or similar wording; or

24 (ii) does not comply with:

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

10 (bb) all federal trademark and copyright
11 laws;

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

15 (C) any cigarettes that such person otherwise
16 knows or has reason to know the manufacturer did not
17 intend to be sold, distributed, or used in the United
18 States; or

19 (D) any cigarettes for which there has not been
20 submitted to the Secretary of the U.S. Department of
21 Health and Human Services the list or lists of the
22 ingredients added to tobacco in the manufacture of the
23 cigarettes required by the federal Cigarette Labeling
24 and Advertising Act, 15 U.S.C. 1335a;

25 (2) to alter the package of any cigarettes, prior to
26 sale or distribution to the ultimate consumer, so as to

1 remove, conceal, or obscure:

2 (A) any statement, label, stamp, sticker, or
3 notice described in subdivision (a)(1)(A)(i) of this
4 Section;

5 (B) any health warning that is not specified in, or
6 does not conform with the requirements of, the federal
7 Cigarette Labeling and Advertising Act, 15 U.S.C.
8 1333; or

9 (3) to affix any stamp required pursuant to this Act to
10 the package of any cigarettes described in subdivision
11 (a)(1) of this Section or altered in violation of
12 subdivision (a)(2).

13 (b) Documentation. On the first business day of each month,
14 each person licensed to affix the State tax stamp to cigarettes
15 shall file with the Department, for all cigarettes imported
16 into the United States to which the person has affixed the tax
17 stamp in the preceding month:

18 (1) a copy of:

19 (A) the permit issued pursuant to the Internal
20 Revenue Code, 26 U.S.C. 5713, to the person importing
21 the cigarettes into the United States allowing the
22 person to import the cigarettes; and

23 (B) the customs form containing, with respect to
24 the cigarettes, the internal revenue tax information
25 required by the U.S. Bureau of Alcohol, Tobacco and
26 Firearms;

1 (2) a statement, signed by the person under penalty of
2 perjury, which shall be treated as confidential by the
3 Department and exempt from disclosure under the Freedom of
4 Information Act, identifying the brand and brand styles of
5 all such cigarettes, the quantity of each brand style of
6 such cigarettes, the supplier of such cigarettes, and the
7 person or persons, if any, to whom such cigarettes have
8 been conveyed for resale; and a separate statement, signed
9 by the individual under penalty of perjury, which shall not
10 be treated as confidential or exempt from disclosure,
11 separately identifying the brands and brand styles of such
12 cigarettes; and

13 (3) a statement, signed by an officer of the
14 manufacturer or importer under penalty of perjury,
15 certifying that the manufacturer or importer has complied
16 with:

17 (A) the package health warning and ingredient
18 reporting requirements of the federal Cigarette
19 Labeling and Advertising Act, 15 U.S.C. 1333 and 1335a,
20 with respect to such cigarettes; and

21 (B) the provisions of Exhibit T of the Master
22 Settlement Agreement entered in the case of People of
23 the State of Illinois v. Philip Morris, et al. (Circuit
24 Court of Cook County, No. 96-L13146), including a
25 statement indicating whether the manufacturer is, or
26 is not, a participating tobacco manufacturer within

1 the meaning of Exhibit T.

2 (c) Administrative sanctions.

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

16 (2) Cigarettes that are acquired, held, owned,
17 possessed, transported in, imported into, or sold or
18 distributed in this State in violation of this Section
19 shall be deemed contraband under this Act and are subject
20 to seizure and forfeiture as provided in this Act, and all
21 such cigarettes seized and forfeited shall be destroyed or
22 maintained and used in an undercover capacity. Such
23 cigarettes shall be deemed contraband whether the
24 violation of this Section is knowing or otherwise.

25 (d) Unfair trade practices. In addition to any other
26 penalties provided for in this Act, a violation of subsection

1 (a) or subsection (b) of this Section shall constitute an
2 unlawful practice as provided in the Consumer Fraud and
3 Deceptive Business Practices Act.

4 (d-1) Retailers who are licensed under Section 4g of the
5 Cigarette Tax Act and secondary distributors shall not be
6 liable under subsections (c)(1) and (d) of this Section for
7 unknowingly possessing, selling, or distributing to consumers
8 or users cigarettes identified in subsection (a)(1) of this
9 Section if the cigarettes possessed, sold, or distributed by
10 the licensed retailer were obtained from a distributor or
11 secondary distributor licensed under this Act or the Cigarette
12 Tax Act.

13 (d-2) Criminal Penalties. A distributor, secondary
14 distributor, retailer, or person who violates subsection (a),
15 or a distributor, secondary distributor, or person who violates
16 subsection (b) of this Section shall be guilty of a Class 4
17 felony.

18 (e) Unfair cigarette sales. For purposes of the Trademark
19 Registration and Protection Act and the Counterfeit Trademark
20 Act, cigarettes imported or reimported into the United States
21 for sale or distribution under any trade name, trade dress, or
22 trademark that is the same as, or is confusingly similar to,
23 any trade name, trade dress, or trademark used for cigarettes
24 manufactured in the United States for sale or distribution in
25 the United States shall be presumed to have been purchased
26 outside of the ordinary channels of trade.

1 (f) General provisions.

2 (1) This Section shall be enforced by the Department;
3 provided that, at the request of the Director of Revenue or
4 the Director's duly authorized agent, the State police and
5 all local police authorities shall enforce the provisions
6 of this Section. The Attorney General has concurrent power
7 with the State's Attorney of any county to enforce this
8 Section.

9 (2) For the purpose of enforcing this Section, the
10 Director of Revenue and any agency to which the Director
11 has delegated enforcement responsibility pursuant to
12 subdivision (f)(1) may request information from any State
13 or local agency and may share information with and request
14 information from any federal agency and any agency of any
15 other state or any local agency of any other state.

16 (3) In addition to any other remedy provided by law,
17 including enforcement as provided in subdivision (f)
18 ~~(a)~~(1), any person may bring an action for appropriate
19 injunctive or other equitable relief for a violation of
20 this Section; actual damages, if any, sustained by reason
21 of the violation; and, as determined by the court, interest
22 on the damages from the date of the complaint, taxable
23 costs, and reasonable attorney's fees. If the trier of fact
24 finds that the violation is flagrant, it may increase
25 recovery to an amount not in excess of 3 times the actual
26 damages sustained by reason of the violation.

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

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

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

4 (h) Applicability.

5 (1) This Section does not apply to:

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

8 (B) cigarettes sold or intended to be sold as
9 duty-free merchandise by a duty-free sales enterprise
10 in accordance with the provisions of 19 U.S.C. 1555(b)
11 and any implementing regulations; except that this
12 Section shall apply to any such cigarettes that are
13 brought back into the customs territory for resale
14 within the customs territory.

15 (2) The penalties provided in this Section are in
16 addition to any other penalties imposed under other
17 provision of law.

18 (Source: P.A. 95-1053, eff. 1-1-10; 96-782, eff. 1-1-10;
19 96-1027, eff. 7-12-10.)

20 (35 ILCS 135/4d)

21 Sec. 4d. Sales of cigarettes to and by retailers. In-state
22 makers, manufacturers, or fabricators licensed as distributors
23 under Section 4 of this Act and out-of-state makers,
24 manufacturers, or fabricators holding permits under Section 7
25 of this Act may not sell original packages of cigarettes to

1 retailers. A retailer who is licensed under Section 4g of the
2 Cigarette Tax Act may sell only original packages of cigarettes
3 obtained from licensed secondary distributors or licensed
4 distributors other than in-state makers, manufacturers, or
5 fabricators licensed as distributors under Section 4 of this
6 Act and out-of-state makers, manufacturers, or fabricators
7 holding permits under Section 7 of this Act.

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

9 (35 ILCS 135/4e)

10 Sec. 4e. Sales of cigarettes to and by secondary
11 distributors. In-state makers, manufacturers, and fabricators
12 licensed as distributors under Section 4 of this Act and
13 out-of-state makers, manufacturers, and fabricators holding
14 permits under Section 7 of this Act may not sell original
15 packages of cigarettes to secondary distributors. A secondary
16 distributor may sell only original packages of cigarettes
17 obtained from licensed distributors other than in-state
18 makers, manufacturers, or fabricators licensed as distributors
19 under Section 4 of this Act and out-of-state makers,
20 manufacturers, or fabricators holding permits under Section 7
21 of this Act. Secondary distributors may sell cigarettes to
22 Illinois retailers who are licensed under Section 4g of the
23 Cigarette Tax Act for resale, and are also authorized to make
24 retail sales of cigarettes at the location on the secondary
25 distributor's license as long as the secondary distributor

1 obtains a license under Section 4g of the Cigarette Tax Act and
2 sells 75% or more of the cigarettes sold at such location to
3 retailers who are licensed under Section 4g of the Cigarette
4 Tax Act for resale.

5 All sales by secondary distributors to Illinois retailers
6 who are licensed under Section 4g of the Cigarette Tax Act must
7 be made at the location on the secondary distributor's license.
8 Retailers who are issued a license under Section 4g of the
9 Cigarette Tax Act must take possession of all cigarettes sold
10 by the secondary distributor at the secondary distributor's
11 licensed address. Secondary distributors may not make
12 deliveries of cigarettes to Illinois retailers who are licensed
13 under Section 4g of the Cigarette Tax Act.

14 Secondary distributors may not file a claim for credit or
15 refund with the State under Section 14a of this Act.

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

17 (35 ILCS 135/28) (from Ch. 120, par. 453.58)

18 Sec. 28. Any person who (a) falsely or fraudulently makes,
19 forges, alters or counterfeits any stamp provided for herein,
20 (b) causes or procures to be falsely or fraudulently made,
21 forged, altered or counterfeited any such stamp, (c) knowingly
22 and wilfully utters, publishes, passes or tenders as genuine
23 any such false, altered, forged or counterfeited stamp, (d)
24 falsely or fraudulently makes, forges, alters or counterfeits
25 any tax imprint on an original package of cigarettes inside a

1 sealed transparent wrapper, (e) causes or procures falsely or
2 fraudulently to be made, forged, altered or counterfeited any
3 such tax imprint or (f) knowingly and wilfully utters,
4 publishes, passes or tenders as genuine any such false,
5 altered, forged or counterfeited tax imprint, for the purpose
6 of evading the tax imposed by this Act, shall be guilty of a
7 Class 2 ~~3~~ felony.

8 (Source: P.A. 77-2229.)

9 (35 ILCS 135/30) (from Ch. 120, par. 453.60)

10 Sec. 30. Punishment for sale or possession of unstamped
11 packages of cigarettes, other than by a licensed distributor or
12 transporter.

13 (a) Possession or sale of more than 9 but less than 101
14 unstamped packages of cigarettes. With the exception of
15 licensed distributors, licensed secondary distributors, or
16 licensed transporters, as defined in Section 9c of the
17 Cigarette Tax Act, any person who has in his or her possession
18 or sells more than 9 but less than 101 original packages of
19 contraband cigarettes is guilty of a Class A misdemeanor and a
20 Class 4 felony for each subsequent offense occurring within 12
21 months of a prior offense.

22 (b) Possession or sale of more than 100 but less than 251
23 unstamped packages of cigarettes. With the exception of
24 licensed distributors, licensed secondary distributors, or
25 licensed transporters, as defined in Section 9c of the

1 Cigarette Tax Act, any person who has in his or her possession
2 or sells more than 100 but less than 251 original packages of
3 contraband cigarettes is guilty of a Class A misdemeanor for
4 the first offense and a Class 4 felony for each subsequent
5 offense.

6 (c) Possession or sale of more than 250 but less than 1,001
7 unstamped packages of cigarettes. With the exception of
8 licensed distributors, licensed secondary distributors, or
9 licensed transporters, as defined in Section 9c of the
10 Cigarette Tax Act, any person who has in his or her possession
11 or sells more than 250 but less than 1,001 original packages of
12 contraband cigarettes is guilty of a Class 4 felony.

13 (d) Possession or sale of more than 1,000 contraband
14 packages of cigarettes. With the exception of licensed
15 distributors, licensed secondary distributors, or licensed
16 transporters, as defined in Section 9c of the Cigarette Tax
17 Act, any person who has in his or her possession or sells, more
18 than 1,000 original packages of contraband cigarettes is guilty
19 of a Class 3 felony.

20 (e) Any person licensed as a distributor, secondary
21 distributor, or transporter, as defined in Section 9c of the
22 Cigarette Tax Act, who has in his or her possession or sells
23 100 or less original packages of contraband cigarettes is
24 guilty of a Class A misdemeanor and a Class 4 felony for each
25 subsequent offense occurring within 12 months of a prior
26 offense.

1 (f) Any person licensed as a distributor, secondary
2 distributor, or transporter, as defined in Section 9c of the
3 Cigarette Tax Act, who has in his or her possession or sells
4 more than 100 original packages of contraband cigarettes is
5 guilty of a Class 4 felony.

6 (g) Notwithstanding subsections (e) through (f), licensed
7 distributors and transporters, as defined in Section 9c of the
8 Cigarette Tax Act, may possess unstamped packages of
9 cigarettes. Notwithstanding subsections (e) through (f),
10 licensed distributors may possess cigarettes that bear a tax
11 stamp of another state or taxing jurisdiction. Notwithstanding
12 subsections (e) through (f), a licensed distributor or licensed
13 secondary distributor may possess contraband cigarettes
14 returned to the distributor or licensed secondary distributor
15 by a retailer if the distributor or licensed secondary
16 distributor immediately conducts an inventory of the
17 cigarettes being returned, the distributor or licensed
18 secondary distributor and the retailer returning the
19 contraband cigarettes sign the inventory, the distributor or
20 licensed secondary distributor provides a copy of the signed
21 inventory to the retailer, and the distributor or licensed
22 secondary distributor retains the inventory in its books and
23 records and promptly notifies the Department of Revenue.

24 (h) Notwithstanding subsections (a) through (d) of this
25 Section, a retailer unknowingly possessing contraband
26 cigarettes obtained from a licensed distributor or licensed

1 secondary distributor or knowingly possessing contraband
2 cigarettes obtained from a licensed distributor or licensed
3 secondary distributor is not subject to penalties under this
4 Section if the retailer, within 48 hours after discovering that
5 the cigarettes are contraband cigarettes, excluding Saturdays,
6 Sundays, and holidays: (i) notifies the Department and the
7 licensed distributor or licensed secondary distributor from
8 whom the cigarettes were obtained, orally and in writing, that
9 he or she possesses contraband cigarettes obtained from a
10 licensed distributor or licensed secondary distributor; (ii)
11 places the contraband cigarettes in one or more containers and
12 seals those containers; and (iii) places on the containers the
13 following or similar language: "Contraband Cigarettes. Not For
14 Sale." All contraband cigarettes in the possession of a
15 retailer remain subject to forfeiture under the provisions of
16 this Act.

17 Any retailer who knowingly possesses packages of
18 cigarettes with a counterfeit stamp with intent to sell is
19 guilty of a Class 2 felony. Any retailer who knowingly
20 possesses unstamped packages of cigarettes with intent to sell
21 is guilty of a Class 4 felony. A retailer shall not be liable
22 for unknowingly possessing, selling, or distributing to
23 consumers cigarettes that contain an old stamp if the correct
24 tax was collected at the point of sale and the cigarettes were
25 obtained from a distributor licensed under this Act.

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

1 Section 20. The Tobacco Products Tax Act of 1995 is amended
2 by changing Sections 10-5, 10-20, 10-25, 10-35, and 10-50 and
3 by adding Sections 10-21, 10-22, 10-37, and 10-53 as follows:

4 (35 ILCS 143/10-5)

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

6 "Business" means any trade, occupation, activity, or
7 enterprise engaged in, at any location whatsoever, for the
8 purpose of selling tobacco products.

9 "Cigarette" has the meaning ascribed to the term in Section
10 1 of the Cigarette Tax Act.

11 "Contraband little cigar" means:

12 (1) packages of little cigars containing 20 or 25
13 little cigars that do not bear a required tax stamp under
14 this Act;

15 (2) packages of little cigars containing 20 or 25
16 little cigars that bear a fraudulent, imitation, or
17 counterfeit tax stamp;

18 (3) packages of little cigars containing 20 or 25
19 little cigars that are improperly tax stamped, including
20 packages of little cigars that bear only a tax stamp of
21 another state or taxing jurisdiction; or

22 (4) packages of little cigars containing other than 20
23 or 25 little cigars in the possession of a distributor,
24 retailer or wholesaler, unless the distributor, retailer,

1 or wholesaler possesses, or produces within the time frame
2 provided in Section 10-27 or 10-28 of this Act, an invoice
3 from a stamping distributor, distributor, or wholesaler
4 showing that the tax on the packages has been or will be
5 paid.

6 "Correctional Industries program" means a program run by a
7 State penal institution in which residents of the penal
8 institution produce tobacco products for sale to persons
9 incarcerated in penal institutions or resident patients of a
10 State operated mental health facility.

11 "Department" means the Illinois Department of Revenue.

12 "Distributor" means any of the following:

13 (1) Any manufacturer or wholesaler in this State
14 engaged in the business of selling tobacco products who
15 sells, exchanges, or distributes tobacco products to
16 retailers or consumers in this State.

17 (2) Any manufacturer or wholesaler engaged in the
18 business of selling tobacco products from without this
19 State who sells, exchanges, distributes, ships, or
20 transports tobacco products to retailers or consumers
21 located in this State, so long as that manufacturer or
22 wholesaler has or maintains within this State, directly or
23 by subsidiary, an office, sales house, or other place of
24 business, or any agent or other representative operating
25 within this State under the authority of the person or
26 subsidiary, irrespective of whether the place of business

1 or agent or other representative is located here
2 permanently or temporarily.

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

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

11 "Little cigar" means and includes any roll, made wholly or
12 in part of tobacco, where such roll has an integrated cellulose
13 acetate filter and weighs less than 4 pounds per thousand and
14 the wrapper or cover of which is made in whole or in part of
15 tobacco.

16 "Manufacturer" means any person, wherever resident or
17 located, who manufactures and sells tobacco products, except a
18 person who makes, manufactures, or fabricates tobacco products
19 as a part of a Correctional Industries program for sale to
20 persons incarcerated in penal institutions or resident
21 patients of a State operated mental health facility.

22 Beginning on January 1, 2013, "moist snuff" means any
23 finely cut, ground, or powdered tobacco that is not intended to
24 be smoked, but shall not include any finely cut, ground, or
25 powdered tobacco that is intended to be placed in the nasal
26 cavity.

1 "Person" means any natural individual, firm, partnership,
2 association, joint stock company, joint venture, limited
3 liability company, or public or private corporation, however
4 formed, or a receiver, executor, administrator, trustee,
5 conservator, or other representative appointed by order of any
6 court.

7 "Place of business" means and includes any place where
8 tobacco products are sold or where tobacco products are
9 manufactured, stored, or kept for the purpose of sale or
10 consumption, including any vessel, vehicle, airplane, train,
11 or vending machine.

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

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

18 "Stamp" or "stamps" mean the indicia required to be affixed
19 on a package of little cigars that evidence payment of the tax
20 on packages of little cigars containing 20 or 25 little cigars
21 under Section 10-10 of this Act. These stamps shall be the same
22 stamps used for cigarettes under the Cigarette Tax Act.

23 "Stamping distributor" means a distributor licensed under
24 this Act and also licensed as a distributor under the Cigarette
25 Tax Act or Cigarette Use Tax Act.

26 "Tobacco products" means any cigars, including little

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

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

26 "Wholesaler" means any person, wherever resident or

1 located, engaged in the business of selling tobacco products to
2 others for the purpose of resale. "Wholesaler", when used in
3 this Act, does not include a person licensed as a distributor
4 under Section 10-20 of this Act unless expressly stated in this
5 Act.

6 (Source: P.A. 97-688, eff. 6-14-12; 98-273, eff. 8-9-13.)

7 (35 ILCS 143/10-20)

8 Sec. 10-20. Distributor's Licenses. It shall be unlawful
9 for any person to engage in business as a distributor of
10 tobacco products within the meaning of this Act without first
11 having obtained a license to do so from the Department.
12 Application for that license shall be made to the Department in
13 a form prescribed and furnished by the Department. Each
14 applicant for a license shall furnish to the Department on a
15 form, signed and verified by the applicant, the following
16 information:

17 (1) The name of the applicant.

18 (2) The address of the location at which the applicant
19 proposes to engage in business as a distributor of tobacco
20 products.

21 (3) Other information the Department may reasonably
22 require.

23 Except as otherwise provided in this Section, every
24 applicant who is required to procure a distributor's license
25 shall file with his or her application a joint and several

1 bond. The bond shall be executed to the Department of Revenue,
2 with good and sufficient surety or sureties residing or
3 licensed to do business within the State of Illinois,
4 conditioned upon the true and faithful compliance by the
5 licensee with all of the provisions of this Act. The Department
6 shall fix the amount of the bond for each applicant, taking
7 into consideration the amount of money expected to become due
8 from the applicant under this Act. The amount of bond required
9 by the Department shall be an amount that, in its opinion, will
10 protect the State of Illinois against failure to pay the amount
11 that may become due from the applicant under this Act, but the
12 amount of the security required by the Department shall not
13 exceed 3 times the amount of the applicant's average monthly
14 tax liability, or \$50,000, whichever amount is lower. The bond,
15 a reissue, or a substitute shall be kept in full force and
16 effect during the entire period covered by the license. A
17 separate application for license shall be made, and bond filed,
18 for each place of business at which a person who is required to
19 procure a distributor's license proposes to engage in business
20 as a distributor under this Act.

21 The Department, upon receipt of an application and bond in
22 proper form, shall issue to the applicant a license, in a form
23 prescribed by the Department, which shall permit the applicant
24 to whom it is issued to engage in business as a distributor at
25 the place shown on his or her application. The license shall be
26 issued by the Department without charge or cost to the

1 applicant. No license issued under this Act is transferable or
2 assignable. The license shall be conspicuously displayed in the
3 place of business conducted by the licensee under the license.

4 The bonding requirement in this Section does not apply to
5 an applicant for a distributor's license who is already bonded
6 under the Cigarette Tax Act or the Cigarette Use Tax Act.
7 Licenses issued by the Department under this Act shall be valid
8 for a period not to exceed one year after issuance unless
9 sooner revoked, canceled, or suspended as provided in this Act.

10 No license shall be issued to any person who is in default
11 to the State of Illinois for moneys due under this Act or any
12 other tax Act administered by the Department.

13 The Department may, in its discretion, upon application,
14 authorize the payment of the tax imposed under Section 10-10 by
15 any distributor or manufacturer not otherwise subject to the
16 tax imposed under this Act who, to the satisfaction of the
17 Department, furnishes adequate security to ensure payment of
18 the tax. The distributor or manufacturer shall be issued,
19 without charge, a license to remit the tax. When so authorized,
20 it shall be the duty of the distributor or manufacturer to
21 remit the tax imposed upon the wholesale price of tobacco
22 products sold or otherwise disposed of to retailers or
23 consumers located in this State, in the same manner and subject
24 to the same requirements as any other distributor or
25 manufacturer licensed under this Act.

26 The Department may revoke, suspend, or cancel the license

1 of a distributor of roll-your-own tobacco (as that term is used
2 in Section 10 of the Tobacco Product Manufacturers' Escrow Act)
3 under this Act if the tobacco product manufacturer, as defined
4 in Section 10 of the Tobacco Product Manufacturers' Escrow Act,
5 that made or sold the roll-your-own tobacco has failed to
6 become a participating manufacturer, as defined in subdivision
7 (a) (1) of Section 15 of the Tobacco Product Manufacturers'
8 Escrow Act, or has failed to create a qualified escrow fund for
9 any roll-your-own tobacco manufactured by the tobacco product
10 manufacturer and sold in this State or otherwise failed to
11 bring itself into compliance with subdivision (a) (2) of Section
12 15 of the Tobacco Product Manufacturers' Escrow Act.

13 Any person aggrieved by any decision of the Department
14 under this Section may, within 20 days after notice of that
15 decision, protest and request a hearing, whereupon the
16 Department must give notice to that person of the time and
17 place fixed for the hearing and must hold a hearing in
18 conformity with the provisions of this Act and then issue its
19 final administrative decision in the matter to that person. In
20 the absence of such a protest within 20 days, the Department's
21 decision becomes final without any further determination being
22 made or notice given.

23 (Source: P.A. 92-231, eff. 8-2-01; 92-737, eff. 7-25-02.)

24 (35 ILCS 143/10-21 new)

25 Sec. 10-21. Retailer's license. Beginning on January 1,

1 2016, no person may engage in business as a retailer of tobacco
2 products in this State without first having obtained a license
3 from the Department. Application for license shall be made to
4 the Department, by electronic means, in a form prescribed by
5 the Department. Each applicant for a license under this Section
6 shall furnish to the Department, in an electronic format
7 established by the Department, the following information:

8 (1) the name and address of the applicant;

9 (2) the address of the location at which the applicant
10 proposes to engage in business as a retailer of tobacco
11 products in this State;

12 (3) such other additional information as the
13 Department may lawfully require by its rules and
14 regulations.

15 The annual license fee payable to the Department for each
16 retailer's license shall be \$75. The fee will be deposited into
17 the Tax Compliance and Administration Fund and shall be used
18 for the cost of tobacco retail inspection and contraband
19 tobacco and tobacco smuggling with at least two-thirds of the
20 money being used for contraband tobacco and tobacco smuggling
21 operations and enforcement.

22 Each applicant for license shall pay such fee to the
23 Department at the time of submitting its application for
24 license to the Department. The Department shall require an
25 applicant for a license under this Section to electronically
26 file and pay the fee.

1 A separate annual license fee shall be paid for each place
2 of business at which a person who is required to procure a
3 retailer's license under this Section proposes to engage in
4 business as a retailer in Illinois under this Act.

5 The following are ineligible to receive a retailer's
6 license under this Act:

7 (1) a person who has been convicted of a felony under
8 any federal or State law for smuggling cigarettes or
9 tobacco products or tobacco tax evasion, if the Department,
10 after investigation and a hearing if requested by the
11 applicant, determines that such person has not been
12 sufficiently rehabilitated to warrant the public trust;
13 and

14 (2) a corporation, if any officer, manager or director
15 thereof, or any stockholder or stockholders owning in the
16 aggregate more than 5% of the stock of such corporation,
17 would not be eligible to receive a license under this Act
18 for any reason.

19 The Department, upon receipt of an application and license
20 fee, in proper form, from a person who is eligible to receive a
21 retailer's license under this Act, shall issue to such
22 applicant a license in form as prescribed by the Department,
23 which license shall permit the applicant to which it is issued
24 to engage in business as a retailer under this Act at the place
25 shown in his application. All licenses issued by the Department
26 under this Section shall be valid for a period not to exceed

1 one year after issuance unless sooner revoked, canceled or
2 suspended as provided in this Act. No license issued under this
3 Section is transferable or assignable. Such license shall be
4 conspicuously displayed in the place of business conducted by
5 the licensee in Illinois under such license. A person who
6 obtains a license as a retailer who ceases to do business as
7 specified in the license, or who never commenced business, or
8 who obtains a distributor's license, or whose license is
9 suspended or revoked, shall immediately surrender the license
10 to the Department. The Department shall not issue a license to
11 a retailer unless the retailer is also validly registered under
12 the Retailers Occupation Tax Act.

13 A retailer as defined under this Act need not obtain an
14 additional license under this Act, but shall be deemed to be
15 sufficiently licensed by virtue of his being properly licensed
16 as a retailer under Section 4g of the Cigarette Tax Act.

17 Any person aggrieved by any decision of the Department
18 under this subsection may, within 30 days after notice of the
19 decision, protest and request a hearing. Upon receiving a
20 request for a hearing, the Department shall give notice to the
21 person requesting the hearing of the time and place fixed for
22 the hearing and shall hold a hearing in conformity with the
23 provisions of this Act and then issue its final administrative
24 decision in the matter to that person. In the absence of a
25 protest and request for a hearing within 30 days, the
26 Department's decision shall become final without any further

1 determination being made or notice given.

2 (35 ILCS 143/10-22 new)

3 Sec. 10-22. Purchases of tobacco products by licensed
4 retailers. A person who possesses a retailer's license under
5 Section 10-21 of this Act shall obtain tobacco products for
6 sale only from a licensed distributor or licensed secondary
7 distributor.

8 (35 ILCS 143/10-25)

9 Sec. 10-25. License actions.

10 (a) The Department may, after notice and a hearing, revoke,
11 cancel, or suspend the license of any distributor or retailer
12 who violates any of the provisions of this Act. The notice
13 shall specify the alleged violation or violations upon which
14 the revocation, cancellation, or suspension proceeding is
15 based.

16 (b) The Department may revoke, cancel, or suspend the
17 license of any distributor for a violation of the Tobacco
18 Product Manufacturers' Escrow Enforcement Act as provided in
19 Section 20 of that Act.

20 (c) If the retailer has a training program that facilitates
21 compliance with minimum-age tobacco laws, the Department shall
22 suspend for 3 days the license of that retailer for a fourth or
23 subsequent violation of the Prevention of Tobacco Use by Minors
24 and Sale and Distribution of Tobacco Products Act, as provided

1 in subsection (a) of Section 2 of that Act. For the purposes of
2 this Section, any violation of subsection (a) of Section 2 of
3 the Prevention of Tobacco Use by Minors and Sale and
4 Distribution of Tobacco Products Act occurring at the
5 retailer's licensed location, during a 24-month period, shall
6 be counted as a violation against the retailer.

7 If the retailer does not have a training program that
8 facilitates compliance with minimum-age tobacco laws, the
9 Department shall suspend for 3 days the license of that
10 retailer for a second violation of the Prevention of Tobacco
11 Use by Minors and Sale and Distribution of Tobacco Products
12 Act, as provided in subsection (a-5) of Section 2 of that Act.

13 If the retailer does not have a training program that
14 facilitates compliance with minimum-age tobacco laws, the
15 Department shall suspend for 7 days the license of that
16 retailer for a third violation of the Prevention of Tobacco Use
17 by Minors and Sale and Distribution of Tobacco Products Act, as
18 provided in subsection (a-5) of Section 2 of that Act.

19 If the retailer does not have a training program that
20 facilitates compliance with minimum-age tobacco laws, the
21 Department shall suspend for 30 days the license of a retailer
22 for a fourth or subsequent violation of the Prevention of
23 Tobacco Use by Minors and Sale and Distribution of Tobacco
24 Products Act, as provided in subsection (a-5) of Section 2 of
25 that Act.

26 A training program that facilitates compliance with

1 minimum-age tobacco laws must include at least the following
2 elements: (i) it must explain that only individuals displaying
3 valid identification demonstrating that they are 18 years of
4 age or older shall be eligible to purchase cigarettes or
5 tobacco products; (ii) it must explain where a clerk can check
6 identification for a date of birth; and (iii) it must explain
7 the penalties that a clerk and retailer are subject to for
8 violations of the Prevention of Tobacco Use by Minors and Sale
9 and Distribution of Tobacco Products Act.

10 (d) The Department may, by application to any circuit
11 court, obtain an injunction restraining any person who engages
12 in business as a distributor of tobacco products without a
13 license (either because his or her license has been revoked,
14 canceled, or suspended or because of a failure to obtain a
15 license in the first instance) from engaging in that business
16 until that person, as if that person were a new applicant for a
17 license, complies with all of the conditions, restrictions, and
18 requirements of Section 10-20 of this Act and qualifies for and
19 obtains a license. Refusal or neglect to obey the order of the
20 court may result in punishment for contempt.

21 (Source: P.A. 92-737, eff. 7-25-02.)

22 (35 ILCS 143/10-35)

23 Sec. 10-35. Record keeping.

24 (a) Every distributor, as defined in Section 10-5, shall
25 keep complete and accurate records of tobacco products held,

1 purchased, manufactured, brought in or caused to be brought in
2 from without the State, and tobacco products sold, or otherwise
3 disposed of, and shall preserve and keep all invoices, bills of
4 lading, sales records, and copies of bills of sale, the
5 wholesale price for tobacco products sold or otherwise disposed
6 of, an inventory of tobacco products prepared as of December 31
7 of each year or as of the last day of the distributor's fiscal
8 year if he or she files federal income tax returns on the basis
9 of a fiscal year, and other pertinent papers and documents
10 relating to the manufacture, purchase, sale, or disposition of
11 tobacco products. Every sales invoice issued by a licensed
12 distributor to a retailer in this State shall contain the
13 distributor's Tobacco Products License number.

14 (b) Every retailer, as defined in Section 10-5, shall keep
15 complete and accurate records of tobacco products held,
16 purchased, sold, or otherwise disposed of, and shall preserve
17 and keep all invoices, bills of lading, sales records, and
18 copies of bills of sale, returns and other pertinent papers and
19 documents relating to the purchase, sale, or disposition of
20 tobacco products. Such records need not be maintained on the
21 licensed premises, but must be maintained in the State of
22 Illinois; however, if access is available electronically, the
23 records may be maintained out of state. However, all original
24 invoices or copies thereof covering purchases of tobacco
25 products must be retained on the licensed premises for a period
26 of 90 days after such purchase, unless the Department has

1 granted a waiver in response to a written request in cases
2 where records are kept at a central business location within
3 the State of Illinois or in cases where records that are
4 available electronically are maintained out of state.

5 (c) Books, records, papers, and documents that are required
6 by this Act to be kept shall, at all times during the usual
7 business hours of the day, be subject to inspection by the
8 Department or its duly authorized agents and employees. The
9 books, records, papers, and documents for any period with
10 respect to which the Department is authorized to issue a notice
11 of tax liability shall be preserved until the expiration of
12 that period.

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

14 (35 ILCS 143/10-37 new)

15 Sec. 10-37. Proof of payment of tax imposed by this Act.
16 Every licensed distributor of tobacco products in this State is
17 required to show proof of the tax having been paid as required
18 by this Act by displaying its Tobacco Products License number
19 on every sales invoice issued to a retailer in this State. No
20 retailer shall possess tobacco products without either a proper
21 invoice indicating that the tobacco products tax was paid by a
22 distributor for the tobacco products in the retailer's
23 possession or other proof that the tax was paid by the retailer
24 if it has purchased tobacco products on which tax has not been
25 paid as required by this Act. Failure to comply with the

1 provisions of this paragraph may be grounds for revocation of a
2 distributor's or retailer's license in accordance with Section
3 10-25 of this Act or Section 6 of the Cigarette Tax Act. In
4 addition, the Department may impose a civil penalty not to
5 exceed \$1,000 for each violation, which shall be deposited into
6 the Tax Compliance and Administration Fund.

7 (35 ILCS 143/10-50)

8 Sec. 10-50. Violations and penalties. When the amount due
9 is under \$300, any distributor who fails to file a return,
10 willfully ~~wilfully~~ fails or refuses to make any payment to the
11 Department of the tax imposed by this Act, or files a
12 fraudulent return, or any officer or agent of a corporation
13 engaged in the business of distributing tobacco products to
14 retailers and consumers located in this State who signs a
15 fraudulent return filed on behalf of the corporation, or any
16 accountant or other agent who knowingly enters false
17 information on the return of any taxpayer under this Act is
18 guilty of a Class 4 felony.

19 Any person who violates any provision of Sections ~~Section~~
20 10-20, 10-21, or 10-22 of this Act, fails to keep books and
21 records as required under this Act, or willfully ~~wilfully~~
22 violates a rule or regulation of the Department for the
23 administration and enforcement of this Act is guilty of a Class
24 4 felony. A person commits a separate offense on each day that
25 he or she engages in business in violation of Sections ~~Section~~

1 10-20, 10-21, or 10-22 of this Act.

2 When the amount due is under \$300, any person who accepts
3 money that is due to the Department under this Act from a
4 taxpayer for the purpose of acting as the taxpayer's agent to
5 make the payment to the Department, but who fails to remit the
6 payment to the Department when due, is guilty of a Class 4
7 felony.

8 Any person who violates any provision of Sections 10-20,
9 10-21 and 10-22 of this Act, fails to keep books and records as
10 required under this Act, or willfully violates a rule or
11 regulation of the Department for the administration and
12 enforcement of this Act is guilty of a business offense and may
13 be fined up to \$5,000. A person commits a separate offense on
14 each day that he or she engages in business in violation of
15 Sections 10-20, 10-21 and 10-22 of this Act.

16 When the amount due is \$300 or more, any distributor who
17 files, or causes to be filed, a fraudulent return, or any
18 officer or agent of a corporation engaged in the business of
19 distributing tobacco products to retailers and consumers
20 located in this State who files or causes to be filed or signs
21 or causes to be signed a fraudulent return filed on behalf of
22 the corporation, or any accountant or other agent who knowingly
23 enters false information on the return of any taxpayer under
24 this Act is guilty of a Class 3 felony.

25 When the amount due is \$300 or more, any person engaged in
26 the business of distributing tobacco products to retailers and

1 consumers located in this State who fails to file a return,
2 willfully ~~willfully~~ fails or refuses to make any payment to the
3 Department of the tax imposed by this Act, or accepts money
4 that is due to the Department under this Act from a taxpayer
5 for the purpose of acting as the taxpayer's agent to make
6 payment to the Department but fails to remit such payment to
7 the Department when due is guilty of a Class 3 felony.

8 When the amount due is under \$300, any retailer who fails
9 to file a return, willfully fails or refuses to make any
10 payment to the Department of the tax imposed by this Act, or
11 files a fraudulent return, or any officer or agent of a
12 corporation engaged in the retail business of selling tobacco
13 products to purchasers of tobacco products for use and
14 consumption located in this State who signs a fraudulent return
15 filed on behalf of the corporation, or any accountant or other
16 agent who knowingly enters false information on the return of
17 any taxpayer under this Act is guilty of a Class A misdemeanor
18 for a first offense and a Class 4 felony for each subsequent
19 offense.

20 When the amount due is \$300 or more, any retailer who fails
21 to file a return, willfully fails or refuses to make any
22 payment to the Department of the tax imposed by this Act, or
23 files a fraudulent return, or any officer or agent of a
24 corporation engaged in the retail business of selling tobacco
25 products to purchasers of tobacco products for use and
26 consumption located in this State who signs a fraudulent return

1 filed on behalf of the corporation, or any accountant or other
2 agent who knowingly enters false information on the return of
3 any taxpayer under this Act is guilty of a Class 4 felony.

4 Any person whose principal place of business is in this
5 State and who is charged with a violation under this Section
6 shall be tried in the county where his or her principal place
7 of business is located unless he or she asserts a right to be
8 tried in another venue. If the taxpayer does not have his or
9 her principal place of business in this State, however, the
10 hearing must be held in Sangamon County unless the taxpayer
11 asserts a right to be tried in another venue.

12 Any taxpayer or agent of a taxpayer who with the intent to
13 defraud purports to make a payment due to the Department by
14 issuing or delivering a check or other order upon a real or
15 fictitious depository for the payment of money, knowing that it
16 will not be paid by the depository, is guilty of a deceptive
17 practice in violation of Section 17-1 of the Criminal Code of
18 2012.

19 A prosecution for a violation described in this Section may
20 be commenced within 3 years after the commission of the act
21 constituting the violation.

22 (Source: P.A. 97-1150, eff. 1-25-13.)

23 (35 ILCS 143/10-53 new)

24 Sec. 10-53. Acting as a retailer of tobacco products
25 without a license. Any person who knowingly acts as a retailer

1 of tobacco products in this State without first having obtained
2 a license to do so in compliance with Section 10-21 of this Act
3 or a license in compliance with Section 4g of the Cigarette Tax
4 Act shall be guilty of a Class A misdemeanor for the first
5 offense and a Class 4 felony for a second or subsequent
6 offense. Each day such person operates as a retailer without a
7 license constitutes a separate offense.

8 Section 25. The Prevention of Tobacco Use by Minors and
9 Sale and Distribution of Tobacco Products Act is amended by
10 changing Sections 1 and 2 as follows:

11 (720 ILCS 675/1) (from Ch. 23, par. 2357)

12 Sec. 1. Prohibition on sale to and possession of tobacco by
13 minors; prohibition on the distribution of tobacco samples to
14 any person; use of identification cards; vending machines;
15 lunch wagons; out-of-package sales.

16 (a) No minor under 18 years of age shall buy any tobacco
17 product. No person shall sell, buy for, distribute samples of
18 or furnish any tobacco product to any minor under 18 years of
19 age.

20 (a-5) No minor under 16 years of age may sell any tobacco
21 product at a retail establishment selling tobacco products.
22 This subsection does not apply to a sales clerk in a
23 family-owned business which can prove that the sales clerk is
24 in fact a son or daughter of the owner.

1 (a-6) No minor under 18 years of age in the furtherance or
2 facilitation of obtaining any tobacco product shall display or
3 use a false or forged identification card or transfer, alter,
4 or deface an identification card.

5 (a-7) No minor under 18 years of age shall possess any
6 cigar, cigarette, smokeless tobacco, or tobacco in any of its
7 forms.

8 (a-8) A person shall not distribute without charge samples
9 of any tobacco product to any other person, regardless of age:

10 (1) within a retail establishment selling tobacco
11 products, unless the retailer has verified the purchaser's
12 age with a government issued identification;

13 (2) from a lunch wagon; or

14 (3) on a public way as a promotion or advertisement of
15 a tobacco manufacturer or tobacco product.

16 This subsection (a-8) does not apply to the distribution of
17 a tobacco product sample in any adult-only facility.

18 (a-9) For the purpose of this Section:

19 "Adult-only facility means a facility or restricted
20 area (whether open-air or enclosed) where the operator
21 ensures or has a reasonable basis to believe (such as by
22 checking identification as required under State law, or by
23 checking the identification of any person appearing to be
24 under the age of 27) that no person under legal age is
25 present. A facility or restricted area need not be
26 permanently restricted to persons under legal age to

1 constitute an adult-only facility, provided that the
2 operator ensures or has a reasonable basis to believe that
3 no person under legal age is present during the event or
4 time period in question.

5 "Lunch wagon" means a mobile vehicle designed and
6 constructed to transport food and from which food is sold
7 to the general public.

8 "Smokeless tobacco" means any tobacco products that
9 are suitable for dipping or chewing.

10 "Tobacco product" means any cigar, cigarette,
11 smokeless tobacco, or tobacco in any of its forms.

12 (b) Tobacco products listed in this Section may be sold
13 through a vending machine only if such tobacco products are not
14 placed together with any non-tobacco product, other than
15 matches, in the vending machine and the vending machine is in
16 any of the following locations:

17 (1) (Blank).

18 (2) Places to which minors under 18 years of age are
19 not permitted access.

20 (3) Places where alcoholic beverages are sold and
21 consumed on the premises and vending machine operation is
22 under the direct supervision of the owner or manager.

23 (4) (Blank).

24 (5) Places where the vending machine can only be
25 operated by the owner or an employee over age 18 either
26 directly or through a remote control device if the device

1 is inaccessible to all customers.

2 (c) (Blank).

3 (d) The sale or distribution by any person of a tobacco
4 product in this Section, including but not limited to a single
5 or loose cigarette, that is not contained within a sealed
6 container, pack, or package as provided by the manufacturer,
7 which container, pack, or package bears the health warning
8 required by federal law, is prohibited.

9 (e) It is not a violation of this Act for a person under 18
10 years of age to purchase or possess a cigar, cigarette,
11 smokeless tobacco or tobacco in any of its forms if the person
12 under the age of 18 purchases or is given the cigar, cigarette,
13 smokeless tobacco or tobacco in any of its forms from a retail
14 seller of tobacco products or an employee of the retail seller
15 pursuant to a plan or action to investigate, patrol, or
16 otherwise conduct a "sting operation" or enforcement action
17 against a retail seller of tobacco products or a person
18 employed by the retail seller of tobacco products or on any
19 premises authorized to sell tobacco products to determine if
20 tobacco products are being sold or given to persons under 18
21 years of age if the "sting operation" or enforcement action is
22 approved by, conducted by, or conducted on behalf of the
23 Department of State Police, the county sheriff, a municipal
24 police department, the Department of Revenue, the Department of
25 Public Health, or a local health department. The results of any
26 sting operation or enforcement action, including the name of

1 the clerk, shall be provided to the retail seller within 7
2 business days.

3 (Source: P.A. 95-905, eff. 1-1-09; 96-179, eff. 8-10-09;
4 96-446, eff. 1-1-10; 96-1000, eff. 7-2-10.)

5 (720 ILCS 675/2) (from Ch. 23, par. 2358)

6 Sec. 2. Penalties.

7 (a) Any person who violates subsection (a) or (a-5) of
8 Section 1 or Section 1.5 of this Act is guilty of a petty
9 offense. For the first offense in a 24-month period, the person
10 shall be fined \$200 if his or her employer has a training
11 program that facilitates compliance with minimum-age tobacco
12 laws. For the second offense in a 24-month period, the person
13 shall be fined \$400 if his or her employer has a training
14 program that facilitates compliance with minimum-age tobacco
15 laws. For the third offense in a 24-month period, the person
16 shall be fined \$600 if his or her employer has a training
17 program that facilitates compliance with minimum-age tobacco
18 laws. For the fourth or subsequent offense in a 24-month
19 period, the person shall be fined \$800 if his or her employer
20 has a training program that facilitates compliance with
21 minimum-age tobacco laws. For the purposes of this subsection,
22 the 24-month period shall begin with the person's first
23 violation of the Act. The penalties in this subsection are in
24 addition to any other penalties prescribed under the Cigarette
25 Tax Act and the Tobacco Products Tax Act of 1995.

1 (a-5) Any person who violates subsection (a) or (a-5) of
2 Section 1 or Section 1.5 of this Act is guilty of a petty
3 offense. For the first offense, the retailer shall be fined
4 \$200 if it does not have a training program that facilitates
5 compliance with minimum-age tobacco laws. For the second
6 offense, the retailer shall be fined \$400 if it does not have a
7 training program that facilitates compliance with minimum-age
8 tobacco laws. For the third offense, the retailer shall be
9 fined \$600 if it does not have a training program that
10 facilitates compliance with minimum-age tobacco laws. For the
11 fourth or subsequent offense in a 24-month period, the retailer
12 shall be fined \$800 if it does not have a training program that
13 facilitates compliance with minimum-age tobacco laws. For the
14 purposes of this subsection, the 24-month period shall begin
15 with the person's first violation of the Act. The penalties in
16 this subsection are in addition to any other penalties
17 prescribed under the Cigarette Tax Act and the Tobacco Products
18 Tax Act of 1995.

19 (a-6) For the purpose of this Act, a training program that
20 facilitates compliance with minimum-age tobacco laws must
21 include at least the following elements: (i) it must explain
22 that only individuals displaying valid identification
23 demonstrating that they are 18 years of age or older shall be
24 eligible to purchase cigarettes or tobacco products; (ii) it
25 must explain where a clerk can check identification for a date
26 of birth; and (iii) it must explain the penalties that a clerk

1 and retailer are subject to for violations of the Prevention of
2 Tobacco Use by Minors and Sale and Distribution of Tobacco
3 Products Act.

4 ~~Any person who violates subsection (a), (a-5), or (a-6) of~~
5 ~~Section 1 or Section 1.5 of this Act is guilty of a petty~~
6 ~~offense and for the first offense shall be fined \$200, \$400 for~~
7 ~~the second offense in a 12 month period, and \$600 for the third~~
8 ~~or any subsequent offense in a 12 month period.~~

9 (b) If a minor violates subsection (a-7) of Section 1 he or
10 she is guilty of a petty offense and the court may impose a
11 sentence of 25 ~~15~~ hours of community service and ~~or~~ a fine of
12 \$50 ~~\$25~~ for a first violation. If a minor violates subsection
13 (a-6) of Section 1, he or she is guilty of a Class A
14 misdemeanor.

15 (c) A second violation by a minor of subsection (a-7) of
16 Section 1 that occurs within 12 months after the first
17 violation is punishable by a fine of \$75 ~~\$50~~ and 50 ~~25~~ hours of
18 community service.

19 (d) A third or subsequent violation by a minor of
20 subsection (a-7) of Section 1 that occurs within 12 months
21 after the first violation is punishable by a \$200 ~~\$100~~ fine and
22 50 ~~30~~ hours of community service.

23 (e) Any second or subsequent violation not within the
24 12-month time period after the first violation is punishable as
25 provided for a first violation.

26 (f) If a minor is convicted of or placed on supervision for

1 a violation of subsection (a-6) or (a-7) of Section 1, the
2 court may, in its discretion, and upon recommendation by the
3 State's Attorney, order that minor and his or her parents or
4 legal guardian to attend a smoker's education or youth
5 diversion program if that program is available in the
6 jurisdiction where the offender resides. Attendance at a
7 smoker's education or youth diversion program shall be
8 time-credited against any community service time imposed for
9 any first violation of subsection (a-7) of Section 1. In
10 addition to any other penalty that the court may impose for a
11 violation of subsection (a-7) of Section 1, the court, upon
12 request by the State's Attorney, may in its discretion require
13 the offender to remit a fee for his or her attendance at a
14 smoker's education or youth diversion program.

15 (g) For purposes of this Section, "smoker's education
16 program" or "youth diversion program" includes, but is not
17 limited to, a seminar designed to educate a person on the
18 physical and psychological effects of smoking tobacco products
19 and the health consequences of smoking tobacco products that
20 can be conducted with a locality's youth diversion program.

21 (h) All moneys collected as fines for violations of
22 subsection (a), (a-5), (a-6), or (a-7) of Section 1 shall be
23 distributed in the following manner:

24 (1) one-half of each fine shall be distributed to the
25 unit of local government or other entity that successfully
26 prosecuted the offender; and

1 (2) one-half shall be remitted to the State to be used
2 for enforcing this Act.

3 Any violation of subsection (a) or (a-5) of Section 1 or
4 Section 1.5 shall be reported to the Department of Revenue
5 within 7 business days.

6 (Source: P.A. 98-350, eff. 1-1-14.)

7 Section 99. Effective date. This Act takes effect January
8 1, 2016.