



Sen. John J. Cullerton

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1 AMENDMENT TO HOUSE BILL 2494

2 AMENDMENT NO. _____. Amend House Bill 2494 by replacing
3 everything after the enacting clause with the following:

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

1 by the tax or fee Act under which the certificate of
2 registration, permit, or license is required or any other tax
3 or fee Act administered by the Department.

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

1 representative appointed by order of any court.

2 (c) When revoking or refusing to issue or reissue a
3 certificate of registration, permit, or license issued by the
4 Department, the procedure for notice and hearing used shall be
5 the procedure provided under the Act pursuant to which the
6 certificate of registration, permit, or license was issued.

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

8 Section 10. The Cigarette Tax Act is amended by changing
9 Sections 3-10, 4d, 4e, 4f, 6, 7, 8, 10, 11, 11a, 11b, 23, 24,
10 and 26 and by adding Sections 4g, 4h, 9g, and 11c as follows:

11 (35 ILCS 130/3-10)

12 Sec. 3-10. Cigarette enforcement.

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

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

18 (A) any cigarettes the package of which:

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

1 U.S.", or similar wording; or

2 (ii) does not comply with:

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

12 (bb) all federal trademark and copyright
13 laws;

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

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

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

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

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

7 (B) any health warning that is not specified in, or
8 does not conform with the requirements of, the federal
9 Cigarette Labeling and Advertising Act, 15 U.S.C.
10 1333; or

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

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

20 (1) a copy of:

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

25 (B) the customs form containing, with respect to
26 the cigarettes, the internal revenue tax information

1 required by the U.S. Bureau of Alcohol, Tobacco and
2 Firearms;

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

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

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

23 (B) the provisions of Exhibit T of the Master
24 Settlement Agreement entered in the case of People of
25 the State of Illinois v. Philip Morris, et al. (Circuit
26 Court of Cook County, No. 96-L13146), including a

1 statement indicating whether the manufacturer is, or
2 is not, a participating tobacco manufacturer within
3 the meaning of Exhibit T.

4 (c) Administrative sanctions.

5 (1) Upon finding that a distributor, secondary
6 distributor, retailer, or person has committed any of the
7 acts prohibited by subsection (a), knowing or having reason
8 to know that he or she has done so, or upon finding that a
9 distributor or person has failed to comply with any
10 requirement of subsection (b), the Department may revoke or
11 suspend the license or licenses of any distributor, ~~or~~
12 secondary distributor, or retailer pursuant to the
13 procedures set forth in Section 6 and impose, on the
14 distributor, secondary distributor, retailer, or person, a
15 civil penalty in an amount not to exceed the greater of
16 500% of the retail value of the cigarettes involved or
17 \$5,000.

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

1 (d) Unfair trade practices. In addition to any other
2 penalties provided for in this Act, a violation of subsection
3 (a) or subsection (b) of this Section shall constitute an
4 unlawful practice as provided in the Consumer Fraud and
5 Deceptive Business Practices Act.

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

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

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

1 outside of the ordinary channels of trade.

2 (f) General provisions.

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

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

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

1 damages sustained by reason of the violation.

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

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

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

5 (h) Applicability.

6 (1) This Section does not apply to:

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

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

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

19 (Source: P.A. 95-1053, eff. 1-1-10; 96-782, eff. 1-1-10;
20 96-1027, eff. 7-12-10.)

21 (35 ILCS 130/4d)

22 Sec. 4d. Sales of cigarettes to and by retailers. In-state
23 makers, manufacturers, and fabricators licensed as
24 distributors under Section 4 of this Act and out-of-state
25 makers, manufacturers, and fabricators holding permits under

1 Section 4b of this Act may not sell original packages of
2 cigarettes to retailers. A retailer who is licensed under
3 Section 4g of this Act may sell only original packages of
4 cigarettes obtained from manufacturer representatives,
5 licensed secondary distributors, or licensed distributors
6 other than in-state makers, manufacturers, or fabricators
7 licensed as distributors under Section 4 of this Act and
8 out-of-state makers, manufacturers, or fabricators holding
9 permits under Section 4b of this Act.

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

12 (35 ILCS 130/4e)

13 Sec. 4e. Sales of cigarettes to and by secondary
14 distributors. In-state makers, manufacturers, and fabricators
15 licensed as distributors under Section 4 of this Act and
16 out-of-state makers, manufacturers, and fabricators holding
17 permits under Section 4b of this Act may not sell original
18 packages of cigarettes to secondary distributors. A secondary
19 distributor may sell only original packages of cigarettes
20 obtained from licensed distributors other than in-state
21 makers, manufacturers, or fabricators licensed as distributors
22 under Section 4 of this Act and out-of-state makers,
23 manufacturers, or fabricators holding permits under Section 4b
24 of this Act. Secondary distributors may sell cigarettes to
25 Illinois retailers issued a license under Section 4g of this

1 Act for resale, and are also authorized to make retail sales of
2 cigarettes at the location on the secondary distributor's
3 license as long as the secondary distributor obtains a license
4 under Section 4g of the Cigarette Tax Act and sells 75% or more
5 of the cigarettes sold at such location to retailers issued a
6 license under Section 4g of this Act for resale. All sales by
7 secondary distributors to retailers issued a license under
8 Section 4g of this Act must be made at the location on the
9 secondary distributor's license. Retailers issued a license
10 under Section 4g of this Act must take possession of all
11 cigarettes sold by the secondary distributor at the secondary
12 distributor's licensed address. Secondary distributors may not
13 make deliveries of cigarettes to retailers.

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

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

17 (35 ILCS 130/4f)

18 Sec. 4f. Manufacturer representatives.

19 (a) No manufacturer may market cigarettes produced by the
20 manufacturer directly to retailers in this State issued a
21 license under Section 4g of this Act without first having
22 obtained authorization from the Department. Application for
23 authority to maintain representatives in this State to market
24 in this State cigarettes produced by the manufacturer shall be
25 made to the Department on a form furnished and prescribed by

1 the Department. Each applicant under this Section shall furnish
2 the following information to the Department on a form signed
3 and verified by the applicant under penalty of perjury:

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

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

7 (3) the number of manufacturer representatives the
8 applicant requests to maintain in this State; and

9 (4) any other additional information as the Department
10 may reasonably require.

11 The following manufacturers are ineligible to receive
12 authorization to maintain manufacturer representatives in this
13 State:

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

19 (2) a manufacturer who has had a license revoked within
20 the past 2 years for misconduct relating to stolen or
21 contraband cigarettes or has been convicted of a state or
22 federal crime, punishable by imprisonment of one year or
23 more, relating to stolen or contraband cigarettes;

24 (3) a manufacturer who has been found, after notice and
25 a hearing, to have imported or caused to be imported into
26 the United States for sale or distribution any cigarette in

1 violation of 19 U.S.C. 1681a;

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

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

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

14 (7) a manufacturer licensed as a distributor under
15 Section 4 of this Act or holding a permit under Section 4b
16 of this Act.

17 The Department, upon receipt of an application from a
18 manufacturer who is eligible to maintain manufacturer
19 representatives in this State, shall notify the applicant in
20 writing, not more than 60 days after an application has been
21 received, that the applicant may or may not maintain the
22 requested number of manufacturer representatives in this
23 State. A copy of the notice authorizing a manufacturer to
24 maintain manufacturer representatives in this State shall be
25 available for inspection by the Department at each place of
26 business identified in the application and in the motor vehicle

1 operated by marketing representatives in the course of
2 performing his or her duties in this State on behalf of the
3 manufacturer.

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

7 (b) Only directors, officers, and employees of the
8 manufacturer may act as manufacturer representatives in this
9 State. The manufacturer shall provide to the Department the
10 names and addresses of the manufacturer representatives
11 operating in this State and the make, model, and license plate
12 number of each motor vehicle operated by a manufacturer
13 representative in the course of performing his or her duties in
14 this State on behalf of the manufacturer. The following
15 individuals may not act as manufacturer representatives:

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

20 (2) an individual who has had a license revoked within
21 the past 2 years for misconduct relating to stolen or
22 contraband cigarettes or has been convicted of a state or
23 federal crime, punishable by imprisonment of one year or
24 more, relating to stolen or contraband cigarettes;

25 (3) an individual who has been found, after notice and
26 a hearing, to have made a material false statement in an

1 application or has failed to produce records required to be
2 maintained by this Act; or

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

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

1 stamps affixed, are contraband and subject to seizure and
2 forfeiture.

3 Manufacturer representatives may sell, on behalf of
4 licensed distributors, stamped original packages of cigarettes
5 to retailers who are licensed under Section 4g of this Act ~~on~~
6 ~~behalf of licensed distributors~~. The manufacturer
7 representative shall provide the distributor with a signed
8 receipt for the cigarettes obtained from the distributor. The
9 distributor shall invoice the licensed retailer, and the
10 licensed retailer shall pay the distributor for all cigarettes
11 provided to licensed retailers by manufacturer representatives
12 on behalf of a distributor.

13 Manufacturer representatives may sell stamped original
14 packages of cigarettes to licensed retailers that are purchased
15 from licensed distributors. Distributors shall provide
16 manufacturer representatives with invoices for stamped
17 original packages of cigarettes sold to manufacturer
18 representatives. Manufacturer representatives shall invoice
19 licensed retailers, and the licensed retailers shall pay the
20 manufacturer representatives for all original packages of
21 cigarettes sold to licensed retailers.

22 (d) Any person aggrieved by any decision of the Department
23 under this Section may, within 20 days after notice of the
24 decision, protest and request a hearing. Upon receiving a
25 request for a hearing, the Department shall give notice to the
26 person requesting the hearing of the time and place fixed for

1 the hearing and shall hold a hearing in conformity with the
2 provisions of this Act and then issue its final administrative
3 decision in the matter to that person. In the absence of a
4 protest and request for a hearing within 20 days, the
5 Department's decision shall become final without any further
6 determination being made or notice given.

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

8 (35 ILCS 130/4g new)

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

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

18 (2) the address of the location at which the applicant
19 proposes to engage in business as a retailer of cigarettes
20 in this State; and

21 (3) such other additional information as the
22 Department may lawfully require by its rules and
23 regulations.

24 The annual license fee payable to the Department for each
25 retailer's license shall be \$75. The fee shall be deposited

1 into the Tax Compliance and Administration Fund and shall be
2 for the cost of tobacco retail inspection and contraband
3 tobacco and tobacco smuggling with at least two-thirds of the
4 money being used for contraband tobacco and tobacco smuggling
5 operations and enforcement.

6 Each applicant for a license shall pay the fee to the
7 Department at the time of submitting its application for a
8 license to the Department. The Department shall require an
9 applicant for a license under this Section to electronically
10 file and pay the fee.

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

15 The following are ineligible to receive a retailer's
16 license under this Act:

17 (1) a person who has been convicted of a felony related
18 to the illegal transportation, sale, or distribution of
19 cigarettes, or a tobacco-related felony, under any federal
20 or State law, if the Department, after investigation and a
21 hearing if requested by the applicant, determines that the
22 person has not been sufficiently rehabilitated to warrant
23 the public trust; or

24 (2) a corporation, if any officer, manager, or director
25 thereof, or any stockholder or stockholders owning in the
26 aggregate more than 5% of the stock of such corporation,

1 would not be eligible to receive a license under this Act
2 for any reason.

3 The Department, upon receipt of an application and license
4 fee, in proper form, from a person who is eligible to receive a
5 retailer's license under this Act, shall issue to such
6 applicant a license in form as prescribed by the Department.
7 That license shall permit the applicant to whom it is issued to
8 engage in business as a retailer under this Act at the place
9 shown in his or her application. All licenses issued by the
10 Department under this Section shall be valid for a period not
11 to exceed one year after issuance unless sooner revoked,
12 canceled, or suspended as provided in this Act. No license
13 issued under this Section is transferable or assignable. The
14 license shall be conspicuously displayed in the place of
15 business conducted by the licensee in Illinois under such
16 license. The Department shall not issue a retailer's license to
17 a retailer unless the retailer is also registered under the
18 Retailers' Occupation Tax Act. A person who obtains a license
19 as a retailer who ceases to do business as specified in the
20 license, or who never commenced business, or who obtains a
21 distributor's license, or whose license is suspended or
22 revoked, shall immediately surrender the license to the
23 Department.

24 Any person aggrieved by any decision of the Department
25 under this subsection may, within 30 days after notice of the
26 decision, protest and request a hearing. Upon receiving a

1 request for a hearing, the Department shall give written notice
2 to the person requesting the hearing of the time and place
3 fixed for the hearing and shall hold a hearing in conformity
4 with the provisions of this Act and then issue its final
5 administrative decision in the matter to that person. In the
6 absence of a protest and request for a hearing within 30 days,
7 the Department's decision shall become final without any
8 further determination being made or notice given.

9 (35 ILCS 130/4h new)

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

15 (35 ILCS 130/6) (from Ch. 120, par. 453.6)

16 Sec. 6. Revocation, cancellation, or suspension of
17 license. The Department may, after notice and hearing as
18 provided for by this Act, revoke, cancel or suspend the license
19 of any distributor, ~~or~~ secondary distributor, or retailer for
20 the violation of any provision of this Act, or for
21 noncompliance with any provision herein contained, or for any
22 noncompliance with any lawful rule or regulation promulgated by
23 the Department under Section 8 of this Act, or because the
24 licensee is determined to be ineligible for a distributor's

1 license for any one or more of the reasons provided for in
2 Section 4 of this Act, or because the licensee is determined to
3 be ineligible for a secondary distributor's license for any one
4 or more of the reasons provided for in Section 4c of this Act,
5 or because the licensee is determined to be ineligible for a
6 retailer's license for any one or more of the reasons provided
7 for in Section 4g of this Act. However, no such license shall
8 be revoked, cancelled or suspended, except after a hearing by
9 the Department with notice to the distributor, ~~or~~ secondary
10 distributor, or retailer, as aforesaid, and affording such
11 distributor, ~~or~~ secondary distributor, or retailer a
12 reasonable opportunity to appear and defend, and any
13 distributor, ~~or~~ secondary distributor, or retailer aggrieved
14 by any decision of the Department with respect thereto may have
15 the determination of the Department judicially reviewed, as
16 herein provided.

17 The Department may revoke, cancel, or suspend the license
18 of any distributor for a violation of the Tobacco Product
19 Manufacturers' Escrow Enforcement Act as provided in Section 30
20 of that Act. The Department may revoke, cancel, or suspend the
21 license of any secondary distributor for a violation of
22 subsection (e) of Section 15 of the Tobacco Product
23 Manufacturers' Escrow Enforcement Act.

24 If the retailer has a training program that facilitates
25 compliance with minimum-age tobacco laws, the Department shall
26 suspend for 3 days the license of that retailer for a fourth or

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

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

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

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

1 that Act.

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

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

1 No license so revoked, as aforesaid, shall be reissued to
2 any such distributor, ~~or~~ secondary distributor, or retailer
3 within a period of 6 months after the date of the final
4 determination of such revocation. No such license shall be
5 reissued at all so long as the person who would receive the
6 license is ineligible to receive a distributor's license under
7 this Act for any one or more of the reasons provided for in
8 Section 4 of this Act, ~~or~~ is ineligible to receive a secondary
9 distributor's license under this Act for any one or more of the
10 reasons provided for in Section 4c of this Act, or is
11 determined to be ineligible for a retailer's license under the
12 Act for any one or more of the reasons provided for in Section
13 4g of this Act.

14 The Department upon complaint filed in the circuit court
15 may by injunction restrain any person who fails, or refuses, to
16 comply with any of the provisions of this Act from acting as a
17 distributor, ~~or~~ secondary distributor, or retailer of
18 cigarettes in this State.

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

20 (35 ILCS 130/7) (from Ch. 120, par. 453.7)

21 Sec. 7. The Department or any officer or employee of the
22 Department designated, in writing, by the Director thereof,
23 shall at its or his or her own instance, or on the written
24 request of any distributor, secondary distributor, retailer,
25 manufacturer with authority to maintain manufacturer

1 representatives, or other interested party to the proceeding,
2 issue subpoenas requiring the attendance of and the giving of
3 testimony by witnesses, and subpoenas duces tecum requiring the
4 production of books, papers, records or memoranda. All
5 subpoenas and subpoenas duces tecum issued under the terms of
6 this Act may be served by any person of full age. The fees of
7 witnesses for attendance and travel shall be the same as the
8 fees of witnesses before the circuit court of this State; such
9 fees to be paid when the witness is excused from further
10 attendance. When the witness is subpoenaed at the instance of
11 the Department or any officer or employee thereof, such fees
12 shall be paid in the same manner as other expenses of the
13 Department, and when the witness is subpoenaed at the instance
14 of any other party to any such proceeding, the cost of service
15 of the subpoena or subpoena duces tecum and the fee of the
16 witness shall be borne by the party at whose instance the
17 witness is summoned. In such case the Department, in its
18 discretion, may require a deposit to cover the cost of such
19 service and witness fees. A subpoena or subpoena duces tecum so
20 issued shall be served in the same manner as a subpoena or
21 subpoena duces tecum issued out of a court.

22 Any circuit court of this State, upon the application of
23 the Department or any officer or employee thereof, or upon the
24 application of any other party to the proceeding, may, in its
25 discretion, compel the attendance of witnesses, the production
26 of books, papers, records or memoranda and the giving of

1 testimony before the Department or any officer or employee
2 thereof conducting an investigation or holding a hearing
3 authorized by this Act, by an attachment for contempt, or
4 otherwise, in the same manner as production of evidence may be
5 compelled before the court.

6 The Department or any officer or employee thereof, or any
7 other party in an investigation or hearing before the
8 Department, may cause the depositions of witnesses within the
9 State to be taken in the manner prescribed by law for like
10 depositions, or depositions for discovery in civil actions in
11 courts of this State, and to that end compel the attendance of
12 witnesses and the production of books, papers, records or
13 memoranda, in the same manner hereinbefore provided.

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

15 (35 ILCS 130/8) (from Ch. 120, par. 453.8)

16 Sec. 8. The Department may make, promulgate and enforce
17 such reasonable rules and regulations relating to the
18 administration and enforcement of this Act as may be deemed
19 expedient.

20 Whenever notice is required by this Act, such notice may be
21 given by United States certified or registered mail, addressed
22 to the person concerned at his last known address, and proof of
23 such mailing shall be sufficient for the purposes of this Act.
24 Notice of any hearing provided for by this Act and held before
25 the Department shall be so given not less than 7 days prior to

1 the day fixed for the hearing.

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

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

6 (2) At the Department's office nearest the taxpayer's
7 or licensee's principal place of business, if the
8 taxpayer's or licensee's principal place of business is in
9 Illinois but outside Cook County;

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

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

21 Service upon the Director of Revenue or Assistant Director
22 of Revenue of summons issued in any action to review a final
23 administrative decision shall be service upon the Department.
24 The Department shall certify the record of its proceedings if
25 the distributor, secondary distributor, retailer, or
26 manufacturer with authority to maintain manufacturer

1 representatives pays to it the sum of 75¢ per page of testimony
2 taken before the Department and 25¢ per page of all other
3 matters contained in such record, except that these charges may
4 be waived where the Department is satisfied that the aggrieved
5 party is a poor person who cannot afford to pay such charges.
6 Before the delivery of such record to the person applying for
7 it, payment of these charges must be made, and if the record is
8 not paid for within 30 days after notice that such record is
9 available, the complaint may be dismissed by the court upon
10 motion of the Department.

11 No stay order shall be entered by the Circuit Court unless
12 the distributor, secondary distributor, retailer, or
13 manufacturer with authority to maintain manufacturer
14 representatives files with the court a bond in an amount fixed
15 and approved by the court, to indemnify the State against all
16 loss and injury which may be sustained by it on account of the
17 review proceedings and to secure all costs which may be
18 occasioned by such proceedings.

19 Whenever any proceeding provided by this Act is begun
20 before the Department, either by the Department or by a person
21 subject to this Act, and such person thereafter dies or becomes
22 a person under legal disability before such proceeding is
23 concluded, the legal representative of the deceased person or
24 of the person under legal disability shall notify the
25 Department of such death or legal disability. Such legal
26 representative, as such, shall then be substituted by the

1 Department for such person. If the legal representative fails
2 to notify the Department of his or her appointment as such
3 legal representative, the Department may, upon its own motion,
4 substitute such legal representative in the proceeding pending
5 before the Department for the person who died or became a
6 person under legal disability.

7 Hearings to contest an administrative decision under this
8 Act conducted as a result of a protest filed with the Illinois
9 Independent Tax Tribunal on or after July 1, 2013 shall be
10 conducted pursuant to the provisions of the Illinois
11 Independent Tax Tribunal Act of 2012.

12 (Source: P.A. 96-1027, eff. 7-12-10; 97-587, eff. 8-26-11;
13 97-1129, eff. 8-28-12.)

14 (35 ILCS 130/10) (from Ch. 120, par. 453.10)

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

1 subpoenas requiring the attendance of a distributor, secondary
2 distributor, retailer, manufacturer with authority to maintain
3 manufacturer representatives under Section 4f of this Act, or
4 manufacturer representative, or any officer or employee of a
5 distributor, secondary distributor, retailer, manufacturer
6 with authority to maintain manufacturer representatives under
7 Section 4f of this Act, or any person having knowledge of the
8 facts, and may take testimony and require proof, and may issue
9 subpoenas duces tecum to compel the production of relevant
10 books, papers, records and memoranda, for the information of
11 the Department.

12 All hearings to contest administrative decisions of the
13 Department conducted as a result of a protest filed with the
14 Illinois Independent Tax Tribunal on or after July 1, 2013
15 shall be subject to the provisions of the Illinois Independent
16 Tax Tribunal Act of 2012.

17 In the conduct of any investigation or hearing provided for
18 by this Act, neither the Department, nor any officer or
19 employee thereof, shall be bound by the technical rules of
20 evidence, and no informality in the proceedings nor in the
21 manner of taking testimony shall invalidate any rule, order,
22 decision or regulation made, approved or confirmed by the
23 Department.

24 The Director of Revenue, or any duly authorized officer or
25 employee of the Department, shall have the power to administer
26 oaths to such persons required by this Act to give testimony

1 before the said Department.

2 The books, papers, records and memoranda of the Department,
3 or parts thereof, may be proved in any hearing, investigation
4 or legal proceeding by a reproduced copy thereof under the
5 certificate of the Director of Revenue. Such reproduced copy
6 shall, without further proof, be admitted into evidence before
7 the Department or in any legal proceeding.

8 (Source: P.A. 96-1027, eff. 7-12-10; 97-587, eff. 8-26-11;
9 97-1129, eff. 8-28-12.)

10 (35 ILCS 130/11) (from Ch. 120, par. 453.11)

11 Sec. 11. Every distributor of cigarettes, who is required
12 to procure a license under this Act, shall keep within
13 Illinois, at his licensed address, complete and accurate
14 records of cigarettes held, purchased, manufactured, brought
15 in or caused to be brought in from without the State, and sold,
16 or otherwise disposed of, and shall preserve and keep within
17 Illinois at his licensed address all invoices, bills of lading,
18 sales records, copies of bills of sale, inventory at the close
19 of each period for which a return is required of all cigarettes
20 on hand and of all cigarette revenue stamps, both affixed and
21 unaffixed, and other pertinent papers and documents relating to
22 the manufacture, purchase, sale or disposition of cigarettes.
23 Every sales invoice issued by a licensed distributor to a
24 retailer in this State shall contain the distributor's
25 cigarette distributor license number. All books and records and

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

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

1 (35 ILCS 130/11a)

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

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

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

17 (35 ILCS 130/11b)

18 Sec. 11b. Manufacturer representatives; records. Every
19 manufacturer with authority to maintain manufacturer
20 representatives under Section 4f of this Act shall keep within
21 Illinois, at his business address identified under Section 4f
22 of this Act, complete and accurate records of cigarettes
23 purchased, sold, or otherwise disposed of, and shall preserve
24 and keep within Illinois at his business address all invoices,
25 sales records, copies of bills of sale, inventory at the close

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

1 or employee of the Department may enter any place of business
2 of the manufacturers with authority to maintain manufacturer
3 representatives under Section 4f of this Act and their
4 manufacturer representatives, or inspect any motor vehicle
5 used by a manufacturer representative in the course of
6 business, without a search warrant and may inspect the
7 premises, motor vehicle, and any packages of cigarettes therein
8 contained to determine whether any of the provisions of this
9 Act are being violated. If such agent or employee is denied
10 free access or is hindered or interfered with in making such
11 examination as herein provided, the ability to maintain
12 marketing representatives in Illinois may be withdrawn by the
13 Department.

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

15 (35 ILCS 130/11c new)

16 Sec. 11c. Retailers; records. Every retailer who is
17 required to procure a license under this Act shall keep within
18 Illinois complete and accurate records of cigarettes
19 purchased, sold, or otherwise disposed of. It shall be the duty
20 of every retail licensee to make sales records, copies of bills
21 of sale, and inventory at the close of each period for which a
22 report is required of all cigarettes on hand available upon
23 reasonable notice for the purpose of investigation and control
24 by the Department. Such records need not be maintained on the
25 licensed premises, but must be maintained in the State of

1 Illinois; however, if access is available electronically, the
2 records may be maintained out of state. However, all original
3 invoices or copies thereof covering purchases of cigarettes
4 must be retained on the licensed premises for a period of 90
5 days after such purchase, unless the Department has granted a
6 waiver in response to a written request in cases where records
7 are kept at a central business location within the State of
8 Illinois or in cases where records that are available
9 electronically are maintained out of state. The Department may
10 adopt rules that establish requirements, including record
11 forms and formats, for records required to be kept and
12 maintained by the retailer.

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

1 examination as herein provided, the license of the retailer
2 shall be subject to suspension or revocation by the Department.

3 (35 ILCS 130/23) (from Ch. 120, par. 453.23)

4 Sec. 23. Every distributor, secondary distributor,
5 retailer, manufacturer with authority to maintain manufacturer
6 representatives under Section 4f of this Act and their
7 manufacturer representatives, or other person who shall
8 knowingly and wilfully sell or offer for sale any original
9 package, as defined in this Act, having affixed thereto any
10 fraudulent, spurious, imitation or counterfeit stamp, or stamp
11 which has been previously affixed, or affixes a stamp which has
12 previously been affixed to an original package, or who shall
13 knowingly and wilfully sell or offer for sale any original
14 package, as defined in this Act, having imprinted thereon
15 underneath the sealed transparent wrapper thereof any
16 fraudulent, spurious, imitation or counterfeit tax imprint,
17 shall be deemed guilty of a Class 2 felony.

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

19 (35 ILCS 130/24) (from Ch. 120, par. 453.24)

20 Sec. 24. Punishment for sale or possession of packages of
21 contraband cigarettes.

22 (a) Possession or sale of 100 or less packages of
23 contraband cigarettes. With the exception of licensed
24 distributors, licensed secondary distributors, or licensed

1 transporters, as defined in Section 9c of this Act, any person
2 who has in his or her possession or sells 100 or less original
3 packages of contraband cigarettes is guilty of a Class A
4 misdemeanor and a Class 4 felony for each subsequent offense
5 occurring within 12 months of a prior offense.

6 (b) Possession or sale of more than 100 but less than 251
7 packages of contraband cigarettes. With the exception of
8 licensed distributors, licensed secondary distributors, or
9 licensed transporters, as defined in Section 9c of this Act,
10 any person who has in his or her possession or sells more than
11 100 but less than 251 original packages of contraband
12 cigarettes is guilty of a Class A misdemeanor for a first
13 offense and a Class 4 felony for each subsequent offense.

14 (c) Possession or sale of more than 250 but less than 1,001
15 packages of contraband cigarettes. With the exception of
16 licensed distributors, licensed secondary distributors, or
17 licensed transporters, as defined in Section 9c of this Act,
18 any person who has in his or her possession or sells more than
19 250 but less than 1,001 original packages of contraband
20 cigarettes is guilty of a Class 4 felony.

21 (d) Possession or sale of more than 1,000 packages of
22 contraband cigarettes. With the exception of licensed
23 distributors, licensed secondary distributors, or licensed
24 transporters, as defined in Section 9c of this Act, any person
25 who has in his or her possession or sells more than 1,000
26 original packages of contraband cigarettes is guilty of a Class

1 3 felony.

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

8 (f) Any person licensed as a distributor, secondary
9 distributor, or transporter, as defined in Section 9c of this
10 Act, who has in his or her possession or sells more than 100
11 original packages of contraband cigarettes is guilty of a Class
12 4 felony.

13 (g) Notwithstanding subsections (e) through (f), licensed
14 distributors and transporters, as defined in Section 9c of this
15 Act, may possess unstamped packages of cigarettes.
16 Notwithstanding subsections (e) through (f), licensed
17 distributors may possess cigarettes that bear a tax stamp of
18 another state or taxing jurisdiction. Notwithstanding
19 subsections (e) through (f), a licensed distributor or licensed
20 secondary distributor may possess contraband cigarettes
21 returned to the distributor or licensed secondary distributor
22 by a retailer if the distributor or licensed secondary
23 distributor immediately conducts an inventory of the
24 cigarettes being returned, the distributor or licensed
25 secondary distributor and the retailer returning the
26 contraband cigarettes sign the inventory, the distributor or

1 licensed secondary distributor provides a copy of the signed
2 inventory to the retailer, and the distributor retains the
3 inventory in its books and records and promptly notifies the
4 Department of Revenue.

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

23 Any retailer who knowingly possesses packages of
24 cigarettes with a counterfeit stamp with intent to sell is
25 guilty of a Class 2 felony. Any retailer who knowingly
26 possesses unstamped packages of cigarettes with intent to sell

1 is guilty of a Class 4 felony. A retailer shall not be liable
2 for unknowingly possessing, selling, or distributing to
3 consumers cigarettes that contain an old stamp if the correct
4 tax was collected at the point of sale and the cigarettes were
5 obtained from a distributor licensed under this Act.

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

7 (35 ILCS 130/26) (from Ch. 120, par. 453.26)

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

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

13 Section 15. The Cigarette Use Tax Act is amended by
14 changing Sections 2-10, 3-10, 4d, 4e, 28, and 30 as follows:

15 (35 ILCS 135/3-10)

16 Sec. 3-10. Cigarette enforcement.

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

18 (1) to sell or distribute in this State; to acquire,
19 hold, own, possess, or transport, for sale or distribution
20 in this State; or to import, or cause to be imported into
21 this State for sale or distribution in this State:

22 (A) any cigarettes the package of which:

23 (i) bears any statement, label, stamp,

1 sticker, or notice indicating that the
2 manufacturer did not intend the cigarettes to be
3 sold, distributed, or used in the United States,
4 including but not limited to labels stating "For
5 Export Only", "U.S. Tax Exempt", "For Use Outside
6 U.S.", or similar wording; or

7 (ii) does not comply with:

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

17 (bb) all federal trademark and copyright
18 laws;

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

22 (C) any cigarettes that such person otherwise
23 knows or has reason to know the manufacturer did not
24 intend to be sold, distributed, or used in the United
25 States; or

26 (D) any cigarettes for which there has not been

1 submitted to the Secretary of the U.S. Department of
2 Health and Human Services the list or lists of the
3 ingredients added to tobacco in the manufacture of the
4 cigarettes required by the federal Cigarette Labeling
5 and Advertising Act, 15 U.S.C. 1335a;

6 (2) to alter the package of any cigarettes, prior to
7 sale or distribution to the ultimate consumer, so as to
8 remove, conceal, or obscure:

9 (A) any statement, label, stamp, sticker, or
10 notice described in subdivision (a)(1)(A)(i) of this
11 Section;

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

16 (3) to affix any stamp required pursuant to this Act to
17 the package of any cigarettes described in subdivision
18 (a)(1) of this Section or altered in violation of
19 subdivision (a)(2).

20 (b) Documentation. On the first business day of each month,
21 each person licensed to affix the State tax stamp to cigarettes
22 shall file with the Department, for all cigarettes imported
23 into the United States to which the person has affixed the tax
24 stamp in the preceding month:

25 (1) a copy of:

26 (A) the permit issued pursuant to the Internal

1 Revenue Code, 26 U.S.C. 5713, to the person importing
2 the cigarettes into the United States allowing the
3 person to import the cigarettes; and

4 (B) the customs form containing, with respect to
5 the cigarettes, the internal revenue tax information
6 required by the U.S. Bureau of Alcohol, Tobacco and
7 Firearms;

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

20 (3) a statement, signed by an officer of the
21 manufacturer or importer under penalty of perjury,
22 certifying that the manufacturer or importer has complied
23 with:

24 (A) the package health warning and ingredient
25 reporting requirements of the federal Cigarette
26 Labeling and Advertising Act, 15 U.S.C. 1333 and 1335a,

1 with respect to such cigarettes; and

2 (B) the provisions of Exhibit T of the Master
3 Settlement Agreement entered in the case of People of
4 the State of Illinois v. Philip Morris, et al. (Circuit
5 Court of Cook County, No. 96-L13146), including a
6 statement indicating whether the manufacturer is, or
7 is not, a participating tobacco manufacturer within
8 the meaning of Exhibit T.

9 (c) Administrative sanctions.

10 (1) Upon finding that a distributor, secondary
11 distributor, retailer, or a person has committed any of the
12 acts prohibited by subsection (a), knowing or having reason
13 to know that he or she has done so, or upon finding that a
14 distributor or person has failed to comply with any
15 requirement of subsection (b), the Department may revoke or
16 suspend the license or licenses of any distributor,
17 retailer, or secondary distributor pursuant to the
18 procedures set forth in Section 6 and impose on the
19 distributor, secondary distributor, retailer, or person, a
20 civil penalty in an amount not to exceed the greater of
21 500% of the retail value of the cigarettes involved or
22 \$5,000.

23 (2) Cigarettes that are acquired, held, owned,
24 possessed, transported in, imported into, or sold or
25 distributed in this State in violation of this Section
26 shall be deemed contraband under this Act and are subject

1 to seizure and forfeiture as provided in this Act, and all
2 such cigarettes seized and forfeited shall be destroyed or
3 maintained and used in an undercover capacity. Such
4 cigarettes shall be deemed contraband whether the
5 violation of this Section is knowing or otherwise.

6 (d) Unfair trade practices. In addition to any other
7 penalties provided for in this Act, a violation of subsection
8 (a) or subsection (b) of this Section shall constitute an
9 unlawful practice as provided in the Consumer Fraud and
10 Deceptive Business Practices Act.

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

20 (d-2) Criminal Penalties. A distributor, secondary
21 distributor, retailer, or person who violates subsection (a),
22 or a distributor, secondary distributor, or person who violates
23 subsection (b) of this Section shall be guilty of a Class 4
24 felony.

25 (e) Unfair cigarette sales. For purposes of the Trademark
26 Registration and Protection Act and the Counterfeit Trademark

1 Act, cigarettes imported or reimported into the United States
2 for sale or distribution under any trade name, trade dress, or
3 trademark that is the same as, or is confusingly similar to,
4 any trade name, trade dress, or trademark used for cigarettes
5 manufactured in the United States for sale or distribution in
6 the United States shall be presumed to have been purchased
7 outside of the ordinary channels of trade.

8 (f) General provisions.

9 (1) This Section shall be enforced by the Department;
10 provided that, at the request of the Director of Revenue or
11 the Director's duly authorized agent, the State police and
12 all local police authorities shall enforce the provisions
13 of this Section. The Attorney General has concurrent power
14 with the State's Attorney of any county to enforce this
15 Section.

16 (2) For the purpose of enforcing this Section, the
17 Director of Revenue and any agency to which the Director
18 has delegated enforcement responsibility pursuant to
19 subdivision (f)(1) may request information from any State
20 or local agency and may share information with and request
21 information from any federal agency and any agency of any
22 other state or any local agency of any other state.

23 (3) In addition to any other remedy provided by law,
24 including enforcement as provided in subdivision (f)
25 ~~(a)~~(1), any person may bring an action for appropriate
26 injunctive or other equitable relief for a violation of

1 this Section; actual damages, if any, sustained by reason
2 of the violation; and, as determined by the court, interest
3 on the damages from the date of the complaint, taxable
4 costs, and reasonable attorney's fees. If the trier of fact
5 finds that the violation is flagrant, it may increase
6 recovery to an amount not in excess of 3 times the actual
7 damages sustained by reason of the violation.

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

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

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

11 (h) Applicability.

12 (1) This Section does not apply to:

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

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

22 (2) The penalties provided in this Section are in
23 addition to any other penalties imposed under other
24 provision of law.

25 (Source: P.A. 95-1053, eff. 1-1-10; 96-782, eff. 1-1-10;
26 96-1027, eff. 7-12-10.)

1 (35 ILCS 135/4d)

2 Sec. 4d. Sales of cigarettes to and by retailers. In-state
3 makers, manufacturers, or fabricators licensed as distributors
4 under Section 4 of this Act and out-of-state makers,
5 manufacturers, or fabricators holding permits under Section 7
6 of this Act may not sell original packages of cigarettes to
7 retailers. A retailer who is licensed under Section 4g of the
8 Cigarette Tax Act may sell only original packages of cigarettes
9 obtained from licensed secondary distributors or licensed
10 distributors other than in-state makers, manufacturers, or
11 fabricators licensed as distributors under Section 4 of this
12 Act and out-of-state makers, manufacturers, or fabricators
13 holding permits under Section 7 of this Act.

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

15 (35 ILCS 135/4e)

16 Sec. 4e. Sales of cigarettes to and by secondary
17 distributors. In-state makers, manufacturers, and fabricators
18 licensed as distributors under Section 4 of this Act and
19 out-of-state makers, manufacturers, and fabricators holding
20 permits under Section 7 of this Act may not sell original
21 packages of cigarettes to secondary distributors. A secondary
22 distributor may sell only original packages of cigarettes
23 obtained from licensed distributors other than in-state
24 makers, manufacturers, or fabricators licensed as distributors

1 under Section 4 of this Act and out-of-state makers,
2 manufacturers, or fabricators holding permits under Section 7
3 of this Act. Secondary distributors may sell cigarettes to
4 Illinois retailers who are licensed under Section 4g of the
5 Cigarette Tax Act for resale, and are also authorized to make
6 retail sales of cigarettes at the location on the secondary
7 distributor's license as long as the secondary distributor
8 obtains a license under Section 4g of the Cigarette Tax Act and
9 sells 75% or more of the cigarettes sold at such location to
10 retailers who are licensed under Section 4g of the Cigarette
11 Tax Act for resale.

12 All sales by secondary distributors to Illinois retailers
13 who are licensed under Section 4g of the Cigarette Tax Act must
14 be made at the location on the secondary distributor's license.
15 Retailers who are issued a license under Section 4g of the
16 Cigarette Tax Act must take possession of all cigarettes sold
17 by the secondary distributor at the secondary distributor's
18 licensed address. Secondary distributors may not make
19 deliveries of cigarettes to Illinois retailers who are licensed
20 under Section 4g of the Cigarette Tax Act.

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

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

24 (35 ILCS 135/28) (from Ch. 120, par. 453.58)

25 Sec. 28. Any person who (a) falsely or fraudulently makes,

1 forges, alters or counterfeits any stamp provided for herein,
2 (b) causes or procures to be falsely or fraudulently made,
3 forged, altered or counterfeited any such stamp, (c) knowingly
4 and wilfully utters, publishes, passes or tenders as genuine
5 any such false, altered, forged or counterfeited stamp, (d)
6 falsely or fraudulently makes, forges, alters or counterfeits
7 any tax imprint on an original package of cigarettes inside a
8 sealed transparent wrapper, (e) causes or procures falsely or
9 fraudulently to be made, forged, altered or counterfeited any
10 such tax imprint or (f) knowingly and wilfully utters,
11 publishes, passes or tenders as genuine any such false,
12 altered, forged or counterfeited tax imprint, for the purpose
13 of evading the tax imposed by this Act, shall be guilty of a
14 Class 2 ~~3~~ felony.

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

16 (35 ILCS 135/30) (from Ch. 120, par. 453.60)

17 Sec. 30. Punishment for sale or possession of unstamped
18 packages of cigarettes, other than by a licensed distributor or
19 transporter.

20 (a) Possession or sale of more than 9 but less than 101
21 unstamped packages of cigarettes. With the exception of
22 licensed distributors, licensed secondary distributors, or
23 licensed transporters, as defined in Section 9c of the
24 Cigarette Tax Act, any person who has in his or her possession
25 or sells more than 9 but less than 101 original packages of

1 contraband cigarettes is guilty of a Class A misdemeanor and a
2 Class 4 felony for each subsequent offense occurring within 12
3 months of a prior offense.

4 (b) Possession or sale of more than 100 but less than 251
5 unstamped packages of cigarettes. With the exception of
6 licensed distributors, licensed secondary distributors, or
7 licensed transporters, as defined in Section 9c of the
8 Cigarette Tax Act, any person who has in his or her possession
9 or sells more than 100 but less than 251 original packages of
10 contraband cigarettes is guilty of a Class A misdemeanor for
11 the first offense and a Class 4 felony for each subsequent
12 offense.

13 (c) Possession or sale of more than 250 but less than 1,001
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 250 but less than 1,001 original packages of
19 contraband cigarettes is guilty of a Class 4 felony.

20 (d) Possession or sale of more than 1,000 contraband
21 packages of cigarettes. With the exception of licensed
22 distributors, licensed secondary distributors, or licensed
23 transporters, as defined in Section 9c of the Cigarette Tax
24 Act, any person who has in his or her possession or sells, more
25 than 1,000 original packages of contraband cigarettes is guilty
26 of a Class 3 felony.

1 (e) 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
4 100 or less original packages of contraband cigarettes is
5 guilty of a Class A misdemeanor and a Class 4 felony for each
6 subsequent offense occurring within 12 months of a prior
7 offense.

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

13 (g) Notwithstanding subsections (e) through (f), licensed
14 distributors and transporters, as defined in Section 9c of the
15 Cigarette Tax Act, may possess unstamped packages of
16 cigarettes. Notwithstanding subsections (e) through (f),
17 licensed distributors may possess cigarettes that bear a tax
18 stamp of another state or taxing jurisdiction. Notwithstanding
19 subsections (e) through (f), a licensed distributor or licensed
20 secondary distributor may possess contraband cigarettes
21 returned to the distributor or licensed secondary distributor
22 by a retailer if the distributor or licensed secondary
23 distributor immediately conducts an inventory of the
24 cigarettes being returned, the distributor or licensed
25 secondary distributor and the retailer returning the
26 contraband cigarettes sign the inventory, the distributor or

1 licensed secondary distributor provides a copy of the signed
2 inventory to the retailer, and the distributor or licensed
3 secondary distributor retains the inventory in its books and
4 records and promptly notifies the Department of Revenue.

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

24 Any retailer who knowingly possesses packages of
25 cigarettes with a counterfeit stamp with intent to sell is
26 guilty of a Class 2 felony. Any retailer who knowingly

1 possesses unstamped packages of cigarettes with intent to sell
2 is guilty of a Class 4 felony. A retailer shall not be liable
3 for unknowingly possessing, selling, or distributing to
4 consumers cigarettes that contain an old stamp if the correct
5 tax was collected at the point of sale and the cigarettes were
6 obtained from a distributor licensed under this Act.

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

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

11 (35 ILCS 143/10-5)

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

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

16 "Cigarette" has the meaning ascribed to the term in Section
17 1 of the Cigarette Tax Act.

18 "Contraband little cigar" means:

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

22 (2) packages of little cigars containing 20 or 25
23 little cigars that bear a fraudulent, imitation, or
24 counterfeit tax stamp;

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

5 (4) packages of little cigars containing other than 20
6 or 25 little cigars in the possession of a distributor,
7 retailer or wholesaler, unless the distributor, retailer,
8 or wholesaler possesses, or produces within the time frame
9 provided in Section 10-27 or 10-28 of this Act, an invoice
10 from a stamping distributor, distributor, or wholesaler
11 showing that the tax on the packages has been or will be
12 paid.

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

18 "Department" means the Illinois Department of Revenue.

19 "Distributor" means any of the following:

20 (1) Any manufacturer or wholesaler in this State
21 engaged in the business of selling tobacco products who
22 sells, exchanges, or distributes tobacco products to
23 retailers or consumers in this State.

24 (2) Any manufacturer or wholesaler engaged in the
25 business of selling tobacco products from without this
26 State who sells, exchanges, distributes, ships, or

1 transports tobacco products to retailers or consumers
2 located in this State, so long as that manufacturer or
3 wholesaler has or maintains within this State, directly or
4 by subsidiary, an office, sales house, or other place of
5 business, or any agent or other representative operating
6 within this State under the authority of the person or
7 subsidiary, irrespective of whether the place of business
8 or agent or other representative is located here
9 permanently or temporarily.

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

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

18 "Little cigar" means and includes any roll, made wholly or
19 in part of tobacco, where such roll has an integrated cellulose
20 acetate filter and weighs less than 4 pounds per thousand and
21 the wrapper or cover of which is made in whole or in part of
22 tobacco.

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

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

3 Beginning on January 1, 2013, "moist snuff" means any
4 finely cut, ground, or powdered tobacco that is not intended to
5 be smoked, but shall not include any finely cut, ground, or
6 powdered tobacco that is intended to be placed in the nasal
7 cavity.

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

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

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

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

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

1 on packages of little cigars containing 20 or 25 little cigars
2 under Section 10-10 of this Act. These stamps shall be the same
3 stamps used for cigarettes under the Cigarette Tax Act.

4 "Stamping distributor" means a distributor licensed under
5 this Act and also licensed as a distributor under the Cigarette
6 Tax Act or Cigarette Use Tax Act.

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

24 "Wholesale price" means the established list price for
25 which a manufacturer sells tobacco products to a distributor,
26 before the allowance of any discount, trade allowance, rebate,

1 or other reduction. In the absence of such an established list
2 price, the manufacturer's invoice price at which the
3 manufacturer sells the tobacco product to unaffiliated
4 distributors, before any discounts, trade allowances, rebates,
5 or other reductions, shall be presumed to be the wholesale
6 price.

7 "Wholesaler" means any person, wherever resident or
8 located, engaged in the business of selling tobacco products to
9 others for the purpose of resale. "Wholesaler", when used in
10 this Act, does not include a person licensed as a distributor
11 under Section 10-20 of this Act unless expressly stated in this
12 Act.

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

14 (35 ILCS 143/10-20)

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

24 (1) The name of the applicant.

25 (2) The address of the location at which the applicant

1 proposes to engage in business as a distributor of tobacco
2 products.

3 (3) Other information the Department may reasonably
4 require.

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

1 as a distributor under this Act.

2 The Department, upon receipt of an application and bond in
3 proper form, shall issue to the applicant a license, in a form
4 prescribed by the Department, which shall permit the applicant
5 to whom it is issued to engage in business as a distributor at
6 the place shown on his or her application. The license shall be
7 issued by the Department without charge or cost to the
8 applicant. No license issued under this Act is transferable or
9 assignable. The license shall be conspicuously displayed in the
10 place of business conducted by the licensee under the license.

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

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

20 The Department may, in its discretion, upon application,
21 authorize the payment of the tax imposed under Section 10-10 by
22 any distributor or manufacturer not otherwise subject to the
23 tax imposed under this Act who, to the satisfaction of the
24 Department, furnishes adequate security to ensure payment of
25 the tax. The distributor or manufacturer shall be issued,
26 without charge, a license to remit the tax. When so authorized,

1 it shall be the duty of the distributor or manufacturer to
2 remit the tax imposed upon the wholesale price of tobacco
3 products sold or otherwise disposed of to retailers or
4 consumers located in this State, in the same manner and subject
5 to the same requirements as any other distributor or
6 manufacturer licensed under this Act.

7 The Department may revoke, suspend, or cancel the license
8 of a distributor of roll-your-own tobacco (as that term is used
9 in Section 10 of the Tobacco Product Manufacturers' Escrow Act)
10 under this Act if the tobacco product manufacturer, as defined
11 in Section 10 of the Tobacco Product Manufacturers' Escrow Act,
12 that made or sold the roll-your-own tobacco has failed to
13 become a participating manufacturer, as defined in subdivision
14 (a)(1) of Section 15 of the Tobacco Product Manufacturers'
15 Escrow Act, or has failed to create a qualified escrow fund for
16 any roll-your-own tobacco manufactured by the tobacco product
17 manufacturer and sold in this State or otherwise failed to
18 bring itself into compliance with subdivision (a)(2) of Section
19 15 of the Tobacco Product Manufacturers' Escrow Act.

20 Any person aggrieved by any decision of the Department
21 under this Section may, within 20 days after notice of that
22 decision, protest and request a hearing, whereupon the
23 Department must give notice to that person of the time and
24 place fixed for the hearing and must hold a hearing in
25 conformity with the provisions of this Act and then issue its
26 final administrative decision in the matter to that person. In

1 the absence of such a protest within 20 days, the Department's
2 decision becomes final without any further determination being
3 made or notice given.

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

5 (35 ILCS 143/10-21 new)

6 Sec. 10-21. Retailer's license. Beginning on January 1,
7 2016, no person may engage in business as a retailer of tobacco
8 products in this State without first having obtained a license
9 from the Department. Application for license shall be made to
10 the Department, by electronic means, in a form prescribed by
11 the Department. Each applicant for a license under this Section
12 shall furnish to the Department, in an electronic format
13 established by the Department, the following information:

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

15 (2) the address of the location at which the applicant
16 proposes to engage in business as a retailer of tobacco
17 products in this State;

18 (3) such other additional information as the
19 Department may lawfully require by its rules and
20 regulations.

21 The annual license fee payable to the Department for each
22 retailer's license shall be \$75. The fee will be deposited into
23 the Tax Compliance and Administration Fund and shall be used
24 for the cost of tobacco retail inspection and contraband
25 tobacco and tobacco smuggling with at least two-thirds of the

1 money being used for contraband tobacco and tobacco smuggling
2 operations and enforcement.

3 Each applicant for license shall pay such fee to the
4 Department at the time of submitting its application for
5 license to the Department. The Department shall require an
6 applicant for a license under this Section to electronically
7 file and pay the fee.

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

12 The following are ineligible to receive a retailer's
13 license under this Act:

14 (1) a person who has been convicted of a felony under
15 any federal or State law for smuggling cigarettes or
16 tobacco products or tobacco tax evasion, if the Department,
17 after investigation and a hearing if requested by the
18 applicant, determines that such person has not been
19 sufficiently rehabilitated to warrant the public trust;
20 and

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

26 The Department, upon receipt of an application and license

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

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

24 Any person aggrieved by any decision of the Department
25 under this subsection may, within 30 days after notice of the
26 decision, protest and request a hearing. Upon receiving a

1 request for a hearing, the Department shall give notice to the
2 person requesting the hearing of the time and place fixed for
3 the hearing and shall hold a hearing in conformity with the
4 provisions of this Act and then issue its final administrative
5 decision in the matter to that person. In the absence of a
6 protest and request for a hearing within 30 days, the
7 Department's decision shall become final without any further
8 determination being made or notice given.

9 (35 ILCS 143/10-22 new)

10 Sec. 10-22. Purchases of tobacco products by licensed
11 retailers. A person who possesses a retailer's license under
12 Section 10-21 of this Act shall obtain tobacco products for
13 sale only from a licensed distributor or licensed secondary
14 distributor.

15 (35 ILCS 143/10-25)

16 Sec. 10-25. License actions.

17 (a) The Department may, after notice and a hearing, revoke,
18 cancel, or suspend the license of any distributor or retailer
19 who violates any of the provisions of this Act. The notice
20 shall specify the alleged violation or violations upon which
21 the revocation, cancellation, or suspension proceeding is
22 based.

23 (b) The Department may revoke, cancel, or suspend the
24 license of any distributor for a violation of the Tobacco

1 Product Manufacturers' Escrow Enforcement Act as provided in
2 Section 20 of that Act.

3 (c) If the retailer has a training program that facilitates
4 compliance with minimum-age tobacco laws, the Department shall
5 suspend for 3 days the license of that retailer for a fourth or
6 subsequent violation of the Prevention of Tobacco Use by Minors
7 and Sale and Distribution of Tobacco Products Act, as provided
8 in subsection (a) of Section 2 of that Act. For the purposes of
9 this Section, any violation of subsection (a) of Section 2 of
10 the Prevention of Tobacco Use by Minors and Sale and
11 Distribution of Tobacco Products Act occurring at the
12 retailer's licensed location, during a 24-month period, shall
13 be counted as a violation against the retailer.

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 3 days the license of that
17 retailer for a second violation of the Prevention of Tobacco
18 Use by Minors and Sale and Distribution of Tobacco Products
19 Act, as provided in subsection (a-5) of Section 2 of that Act.

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

26 If the retailer does not have a training program that

1 facilitates compliance with minimum-age tobacco laws, the
2 Department shall suspend for 30 days the license of a retailer
3 for a fourth or subsequent violation of the Prevention of
4 Tobacco Use by Minors and Sale and Distribution of Tobacco
5 Products Act, as provided in subsection (a-5) of Section 2 of
6 that Act.

7 A training program that facilitates compliance with
8 minimum-age tobacco laws must include at least the following
9 elements: (i) it must explain that only individuals displaying
10 valid identification demonstrating that they are 18 years of
11 age or older shall be eligible to purchase cigarettes or
12 tobacco products; (ii) it must explain where a clerk can check
13 identification for a date of birth; and (iii) it must explain
14 the penalties that a clerk and retailer are subject to for
15 violations of the Prevention of Tobacco Use by Minors and Sale
16 and Distribution of Tobacco Products Act.

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

1 court may result in punishment for contempt.

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

3 (35 ILCS 143/10-35)

4 Sec. 10-35. Record keeping.

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

20 (b) Every retailer, as defined in Section 10-5, shall keep
21 complete and accurate records of tobacco products held,
22 purchased, sold, or otherwise disposed of, and shall preserve
23 and keep all invoices, bills of lading, sales records, and
24 copies of bills of sale, returns and other pertinent papers and
25 documents relating to the purchase, sale, or disposition of

1 tobacco products. Such records need not be maintained on the
2 licensed premises, but must be maintained in the State of
3 Illinois; however, if access is available electronically, the
4 records may be maintained out of state. However, all original
5 invoices or copies thereof covering purchases of tobacco
6 products must be retained on the licensed premises for a period
7 of 90 days after such purchase, unless the Department has
8 granted a waiver in response to a written request in cases
9 where records are kept at a central business location within
10 the State of Illinois or in cases where records that are
11 available electronically are maintained out of state.

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

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

21 (35 ILCS 143/10-37 new)

22 Sec. 10-37. Proof of payment of tax imposed by this Act.
23 Every licensed distributor of tobacco products in this State is
24 required to show proof of the tax having been paid as required
25 by this Act by displaying its Tobacco Products License number

1 on every sales invoice issued to a retailer in this State. No
2 retailer shall possess tobacco products without either a proper
3 invoice indicating that the tobacco products tax was paid by a
4 distributor for the tobacco products in the retailer's
5 possession or other proof that the tax was paid by the retailer
6 if it has purchased tobacco products on which tax has not been
7 paid as required by this Act. Failure to comply with the
8 provisions of this paragraph may be grounds for revocation of a
9 distributor's or retailer's license in accordance with Section
10 10-25 of this Act or Section 6 of the Cigarette Tax Act. In
11 addition, the Department may impose a civil penalty not to
12 exceed \$1,000 for each violation, which shall be deposited into
13 the Tax Compliance and Administration Fund.

14 (35 ILCS 143/10-50)

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

1 Any person who violates any provision of ~~Sections Section~~
2 10-20, 10-21, or 10-22 of this Act, fails to keep books and
3 records as required under this Act, or willfully ~~willfully~~
4 violates a rule or regulation of the Department for the
5 administration and enforcement of this Act is guilty of a Class
6 4 felony. A person commits a separate offense on each day that
7 he or she engages in business in violation of ~~Sections Section~~
8 10-20, 10-21, or 10-22 of this Act.

9 When the amount due is under \$300, any person who accepts
10 money that is due to the Department under this Act from a
11 taxpayer for the purpose of acting as the taxpayer's agent to
12 make the payment to the Department, but who fails to remit the
13 payment to the Department when due, is guilty of a Class 4
14 felony.

15 Any person who violates any provision of Sections 10-20,
16 10-21 and 10-22 of this Act, fails to keep books and records as
17 required under this Act, or willfully violates a rule or
18 regulation of the Department for the administration and
19 enforcement of this Act is guilty of a business offense and may
20 be fined up to \$5,000. A person commits a separate offense on
21 each day that he or she engages in business in violation of
22 Sections 10-20, 10-21 and 10-22 of this Act.

23 When the amount due is \$300 or more, any distributor who
24 files, or causes to be filed, a fraudulent return, or any
25 officer or agent of a corporation engaged in the business of
26 distributing tobacco products to retailers and consumers

1 located in this State who files or causes to be filed or signs
2 or causes to be signed a fraudulent return filed on behalf of
3 the corporation, or any accountant or other agent who knowingly
4 enters false information on the return of any taxpayer under
5 this Act is guilty of a Class 3 felony.

6 When the amount due is \$300 or more, any person engaged in
7 the business of distributing tobacco products to retailers and
8 consumers located in this State who fails to file a return,
9 willfully ~~wilfully~~ fails or refuses to make any payment to the
10 Department of the tax imposed by this Act, or accepts money
11 that is due to the Department under this Act from a taxpayer
12 for the purpose of acting as the taxpayer's agent to make
13 payment to the Department but fails to remit such payment to
14 the Department when due is guilty of a Class 3 felony.

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

1 When the amount due is \$300 or more, any retailer who fails
2 to file a return, willfully fails or refuses to make any
3 payment to the Department of the tax imposed by this Act, or
4 files a fraudulent return, or any officer or agent of a
5 corporation engaged in the retail business of selling tobacco
6 products to purchasers of tobacco products for use and
7 consumption located in this State who signs a fraudulent return
8 filed on behalf of the corporation, or any accountant or other
9 agent who knowingly enters false information on the return of
10 any taxpayer under this Act is guilty of a Class 4 felony.

11 Any person whose principal place of business is in this
12 State and who is charged with a violation under this Section
13 shall be tried in the county where his or her principal place
14 of business is located unless he or she asserts a right to be
15 tried in another venue. If the taxpayer does not have his or
16 her principal place of business in this State, however, the
17 hearing must be held in Sangamon County unless the taxpayer
18 asserts a right to be tried in another venue.

19 Any taxpayer or agent of a taxpayer who with the intent to
20 defraud purports to make a payment due to the Department by
21 issuing or delivering a check or other order upon a real or
22 fictitious depository for the payment of money, knowing that it
23 will not be paid by the depository, is guilty of a deceptive
24 practice in violation of Section 17-1 of the Criminal Code of
25 2012.

26 A prosecution for a violation described in this Section may

1 be commenced within 3 years after the commission of the act
2 constituting the violation.

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

4 (35 ILCS 143/10-53 new)

5 Sec. 10-53. Acting as a retailer of tobacco products
6 without a license. Any person who knowingly acts as a retailer
7 of tobacco products in this State without first having obtained
8 a license to do so in compliance with Section 10-21 of this Act
9 or a license in compliance with Section 4g of the Cigarette Tax
10 Act shall be guilty of a Class A misdemeanor for the first
11 offense and a Class 4 felony for a second or subsequent
12 offense. Each day such person operates as a retailer without a
13 license constitutes a separate offense.

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

17 (720 ILCS 675/1) (from Ch. 23, par. 2357)

18 Sec. 1. Prohibition on sale to and possession of tobacco by
19 minors; prohibition on the distribution of tobacco samples to
20 any person; use of identification cards; vending machines;
21 lunch wagons; out-of-package sales.

22 (a) No minor under 18 years of age shall buy any tobacco
23 product. No person shall sell, buy for, distribute samples of

1 or furnish any tobacco product to any minor under 18 years of
2 age.

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

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

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

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

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

20 (2) from a lunch wagon; or

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

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

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

26 "Adult-only facility means a facility or restricted

1 area (whether open-air or enclosed) where the operator
2 ensures or has a reasonable basis to believe (such as by
3 checking identification as required under State law, or by
4 checking the identification of any person appearing to be
5 under the age of 27) that no person under legal age is
6 present. A facility or restricted area need not be
7 permanently restricted to persons under legal age to
8 constitute an adult-only facility, provided that the
9 operator ensures or has a reasonable basis to believe that
10 no person under legal age is present during the event or
11 time period in question.

12 "Lunch wagon" means a mobile vehicle designed and
13 constructed to transport food and from which food is sold
14 to the general public.

15 "Smokeless tobacco" means any tobacco products that
16 are suitable for dipping or chewing.

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

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

24 (1) (Blank).

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

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

4 (4) (Blank).

5 (5) Places where the vending machine can only be
6 operated by the owner or an employee over age 18 either
7 directly or through a remote control device if the device
8 is inaccessible to all customers.

9 (c) (Blank).

10 (d) The sale or distribution by any person of a tobacco
11 product in this Section, including but not limited to a single
12 or loose cigarette, that is not contained within a sealed
13 container, pack, or package as provided by the manufacturer,
14 which container, pack, or package bears the health warning
15 required by federal law, is prohibited.

16 (e) It is not a violation of this Act for a person under 18
17 years of age to purchase or possess a cigar, cigarette,
18 smokeless tobacco or tobacco in any of its forms if the person
19 under the age of 18 purchases or is given the cigar, cigarette,
20 smokeless tobacco or tobacco in any of its forms from a retail
21 seller of tobacco products or an employee of the retail seller
22 pursuant to a plan or action to investigate, patrol, or
23 otherwise conduct a "sting operation" or enforcement action
24 against a retail seller of tobacco products or a person
25 employed by the retail seller of tobacco products or on any
26 premises authorized to sell tobacco products to determine if

1 tobacco products are being sold or given to persons under 18
2 years of age if the "sting operation" or enforcement action is
3 approved by, conducted by, or conducted on behalf of the
4 Department of State Police, the county sheriff, a municipal
5 police department, the Department of Revenue, the Department of
6 Public Health, or a local health department. The results of any
7 sting operation or enforcement action, including the name of
8 the clerk, shall be provided to the retail seller within 7
9 business days.

10 (Source: P.A. 95-905, eff. 1-1-09; 96-179, eff. 8-10-09;
11 96-446, eff. 1-1-10; 96-1000, eff. 7-2-10.)

12 (720 ILCS 675/2) (from Ch. 23, par. 2358)

13 Sec. 2. Penalties.

14 (a) Any person who violates subsection (a) or (a-5) of
15 Section 1 or Section 1.5 of this Act is guilty of a petty
16 offense. For the first offense in a 24-month period, the person
17 shall be fined \$200 if his or her employer has a training
18 program that facilitates compliance with minimum-age tobacco
19 laws. For the second offense in a 24-month period, the person
20 shall be fined \$400 if his or her employer has a training
21 program that facilitates compliance with minimum-age tobacco
22 laws. For the third offense in a 24-month period, the person
23 shall be fined \$600 if his or her employer has a training
24 program that facilitates compliance with minimum-age tobacco
25 laws. For the fourth or subsequent offense in a 24-month

1 period, the person shall be fined \$800 if his or her employer
2 has a training program that facilitates compliance with
3 minimum-age tobacco laws. For the purposes of this subsection,
4 the 24-month period shall begin with the person's first
5 violation of the Act. The penalties in this subsection are in
6 addition to any other penalties prescribed under the Cigarette
7 Tax Act and the Tobacco Products Tax Act of 1995.

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

26 (a-6) For the purpose of this Act, a training program that

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

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

16 (b) If a minor violates subsection (a-7) of Section 1 he or
17 she is guilty of a petty offense and the court may impose a
18 sentence of 25 ~~15~~ hours of community service and ~~or~~ a fine of
19 \$50 ~~\$25~~ for a first violation. If a minor violates subsection
20 (a-6) of Section 1 he or she is guilty of a Class A
21 misdemeanor.

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

26 (d) A third or subsequent violation by a minor of

1 subsection (a-7) of Section 1 that occurs within 12 months
2 after the first violation is punishable by a \$200 ~~\$100~~ fine and
3 50 ~~30~~ hours of community service.

4 (e) Any second or subsequent violation not within the
5 12-month time period after the first violation is punishable as
6 provided for a first violation.

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

22 (g) For purposes of this Section, "smoker's education
23 program" or "youth diversion program" includes, but is not
24 limited to, a seminar designed to educate a person on the
25 physical and psychological effects of smoking tobacco products
26 and the health consequences of smoking tobacco products that

1 can be conducted with a locality's youth diversion program.

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

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

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

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

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

14 Section 99. Effective date. This Act takes effect January
15 1, 2016."