



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB4212

by Rep. La Shawn K. Ford

#### SYNOPSIS AS INTRODUCED:

35 ILCS 130/24	from Ch. 120, par. 453.24
35 ILCS 135/30	from Ch. 120, par. 453.60
720 ILCS 675/2	from Ch. 23, par. 2358

Amends the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act. Provides that a violation of the Act involving the sale or distribution of single or loose cigarettes that are not contained within a sealed container, pack, or package to persons who are 18 years of age or older is a petty offense punishable by a fine of not more than \$50, which may be satisfied without a court appearance by a written plea of guilty and payment of all applicable fines, penalties, and costs. Amends the Cigarette Tax Act and the Cigarette Use Tax Act to provide that those violations shall be subject only to the penalties provided in the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act.

LRB099 12130 HLH 34837 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning criminal law.

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

4 Section 5. The Cigarette Tax Act is amended by changing  
5 Section 24 as follows:

6 (35 ILCS 130/24) (from Ch. 120, par. 453.24)

7 (Text of Section before amendment by P.A. 98-1055)

8 Sec. 24. Punishment for sale or possession of packages of  
9 contraband cigarettes.

10 (a) Possession or sale of 100 or less packages of  
11 contraband cigarettes. With the exception of licensed  
12 distributors, licensed secondary distributors, or licensed  
13 transporters, as defined in Section 9c of this Act, any person  
14 who has in his or her possession or sells 100 or less original  
15 packages of contraband cigarettes is guilty of a Class A  
16 misdemeanor.

17 (b) Possession or sale of more than 100 but less than 251  
18 packages of contraband cigarettes. With the exception of  
19 licensed distributors, licensed secondary distributors, or  
20 licensed transporters, as defined in Section 9c of this Act,  
21 any person who has in his or her possession or sells more than  
22 100 but less than 251 original packages of contraband  
23 cigarettes is guilty of a Class A misdemeanor for a first

1 offense and a Class 4 felony for each subsequent offense.

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

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

16 (e) Any person licensed as a distributor, secondary  
17 distributor, or transporter, as defined in Section 9c of this  
18 Act, who has in his or her possession or sells 100 or less  
19 original packages of contraband cigarettes is guilty of a Class  
20 A misdemeanor.

21 (f) Any person licensed as a distributor, secondary  
22 distributor, or transporter, as defined in Section 9c of this  
23 Act, who has in his or her possession or sells more than 100  
24 original packages of contraband cigarettes is guilty of a Class  
25 4 felony.

26 (g) Notwithstanding subsections (e) through (f), licensed

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

18 (h) Notwithstanding subsections (a) through (d) of this  
19 Section, a retailer unknowingly possessing contraband  
20 cigarettes obtained from a licensed distributor or licensed  
21 secondary distributor or knowingly possessing contraband  
22 cigarettes obtained from a licensed distributor is not subject  
23 to penalties under this Section if the retailer, within 48  
24 hours after discovering that the cigarettes are contraband  
25 cigarettes, excluding Saturdays, Sundays, and holidays: (i)  
26 notifies the Department and the licensed distributor or

1 licensed secondary distributor from whom the cigarettes were  
2 obtained, orally and in writing, that he or she possesses  
3 contraband cigarettes obtained from a licensed distributor or  
4 licensed secondary distributor; (ii) places the contraband  
5 cigarettes in one or more containers and seals those  
6 containers; and (iii) places on the containers the following or  
7 similar language: "Contraband Cigarettes. Not For Sale." All  
8 contraband cigarettes in the possession of a retailer remain  
9 subject to forfeiture under the provisions of this Act.

10 (i) Notwithstanding any other provision of law, violations  
11 of subsection (d) of Section 1 of the Prevention of Tobacco Use  
12 by Minors and Sale and Distribution of Tobacco Products Act,  
13 other than violations involving the sale or distribution of a  
14 tobacco product to a minor under the age of 18, shall be  
15 subject only to the penalties provided in subsection (g-5) of  
16 Section 2 of that Act.

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

18 (Text of Section after amendment by P.A. 98-1055)

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

21 (a) Possession or sale of 100 or less 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 100 or less original

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

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

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

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

26 (e) Any person licensed as a distributor, secondary

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

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

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

1 inventory in its books and records and promptly notifies the  
2 Department of Revenue.

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

21 Any retailer who knowingly possesses packages of  
22 cigarettes with a counterfeit stamp with intent to sell is  
23 guilty of a Class 2 felony. Any retailer who knowingly  
24 possesses unstamped packages of cigarettes with intent to sell  
25 is guilty of a Class 4 felony. A retailer shall not be liable  
26 for unknowingly possessing, selling, or distributing to



1 consumers cigarettes that contain an old stamp if the correct  
2 tax was collected at the point of sale and the cigarettes were  
3 obtained from a distributor licensed under this Act.

4 (i) Notwithstanding any other provision of law, violations  
5 of subsection (d) of Section 1 of the Prevention of Tobacco Use  
6 by Minors and Sale and Distribution of Tobacco Products Act,  
7 other than violations involving the sale or distribution of a  
8 tobacco product to a minor under the age of 18, shall be  
9 subject only to the penalties provided in subsection (g-5) of  
10 Section 2 of that Act.

11 (Source: P.A. 98-1055, eff. 1-1-16.)

12 Section 10. The Cigarette Use Tax Act is amended by  
13 changing Section 30 as follows:

14 (35 ILCS 135/30) (from Ch. 120, par. 453.60)

15 (Text of Section before amendment by P.A. 98-1055)

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

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

1 contraband cigarettes is guilty of a Class A misdemeanor.

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

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

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

25 (e) Any person licensed as a distributor, secondary  
26 distributor, or transporter, as defined in Section 9c of the

1 Cigarette Tax Act, who has in his or her possession or sells  
2 100 or less original packages of contraband cigarettes is  
3 guilty of a Class A misdemeanor.

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

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

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

20 (i) Notwithstanding any other provision of law, violations  
21 of subsection (d) of Section 1 of the Prevention of Tobacco Use  
22 by Minors and Sale and Distribution of Tobacco Products Act,  
23 other than violations involving the sale or distribution of a  
24 tobacco product to a minor under the age of 18, shall be  
25 subject only to the penalties provided in subsection (g-5) of  
26 Section 2 of that Act.

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

2 (Text of Section after amendment by P.A. 98-1055)

3 Sec. 30. Punishment for sale or possession of unstamped  
4 packages of cigarettes, other than by a licensed distributor or  
5 transporter.

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

15 (b) Possession or sale of more than 100 but less than 251  
16 unstamped packages of cigarettes. With the exception of  
17 licensed distributors, licensed secondary distributors, or  
18 licensed transporters, as defined in Section 9c of the  
19 Cigarette Tax Act, any person who has in his or her possession  
20 or sells more than 100 but less than 251 original packages of  
21 contraband cigarettes is guilty of a Class A misdemeanor for  
22 the first offense and a Class 4 felony for each subsequent  
23 offense.

24 (c) Possession or sale of more than 250 but less than 1,001  
25 unstamped packages of cigarettes. With the exception of

1 licensed distributors, licensed secondary distributors, or  
2 licensed transporters, as defined in Section 9c of the  
3 Cigarette Tax Act, any person who has in his or her possession  
4 or sells more than 250 but less than 1,001 original packages of  
5 contraband cigarettes is guilty of a Class 4 felony.

6 (d) Possession or sale of more than 1,000 contraband  
7 packages of cigarettes. With the exception of licensed  
8 distributors, licensed secondary distributors, or licensed  
9 transporters, as defined in Section 9c of the Cigarette Tax  
10 Act, any person who has in his or her possession or sells, more  
11 than 1,000 original packages of contraband cigarettes is guilty  
12 of a Class 3 felony.

13 (e) Any person licensed as a distributor, secondary  
14 distributor, or transporter, as defined in Section 9c of the  
15 Cigarette Tax Act, who has in his or her possession or sells  
16 100 or less original packages of contraband cigarettes is  
17 guilty of a Class A misdemeanor and a Class 4 felony for each  
18 subsequent offense occurring within 12 months of a prior  
19 offense.

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

25 (g) Notwithstanding subsections (e) through (f), licensed  
26 distributors and transporters, as defined in Section 9c of the

1 Cigarette Tax Act, may possess unstamped packages of  
2 cigarettes. Notwithstanding subsections (e) through (f),  
3 licensed distributors may possess cigarettes that bear a tax  
4 stamp of another state or taxing jurisdiction. Notwithstanding  
5 subsections (e) through (f), a licensed distributor or licensed  
6 secondary distributor may possess contraband cigarettes  
7 returned to the distributor or licensed secondary distributor  
8 by a retailer if the distributor or licensed secondary  
9 distributor immediately conducts an inventory of the  
10 cigarettes being returned, the distributor or licensed  
11 secondary distributor and the retailer returning the  
12 contraband cigarettes sign the inventory, the distributor or  
13 licensed secondary distributor provides a copy of the signed  
14 inventory to the retailer, and the distributor or licensed  
15 secondary distributor retains the inventory in its books and  
16 records and promptly notifies the Department of Revenue.

17 (h) Notwithstanding subsections (a) through (d) of this  
18 Section, a retailer unknowingly possessing contraband  
19 cigarettes obtained from a licensed distributor or licensed  
20 secondary distributor or knowingly possessing contraband  
21 cigarettes obtained from a licensed distributor or licensed  
22 secondary distributor is not subject to penalties under this  
23 Section if the retailer, within 48 hours after discovering that  
24 the cigarettes are contraband cigarettes, excluding Saturdays,  
25 Sundays, and holidays: (i) notifies the Department and the  
26 licensed distributor or licensed secondary distributor from

1 whom the cigarettes were obtained, orally and in writing, that  
2 he or she possesses contraband cigarettes obtained from a  
3 licensed distributor or licensed secondary distributor; (ii)  
4 places the contraband cigarettes in one or more containers and  
5 seals those containers; and (iii) places on the containers the  
6 following or similar language: "Contraband Cigarettes. Not For  
7 Sale." All contraband cigarettes in the possession of a  
8 retailer remain subject to forfeiture under the provisions of  
9 this Act.

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

19 (i) Notwithstanding any other provision of law, violations  
20 of subsection (d) of Section 1 of the Prevention of Tobacco Use  
21 by Minors and Sale and Distribution of Tobacco Products Act,  
22 other than violations involving the sale or distribution of a  
23 tobacco product to a minor under the age of 18, shall be  
24 subject only to the penalties provided in subsection (g-5) of  
25 Section 2 of that Act.

26 (Source: P.A. 98-1055, eff. 1-1-16.)



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

4           (720 ILCS 675/2) (from Ch. 23, par. 2358)

5           (Text of Section before amendment by P.A. 98-1055)

6           Sec. 2. Penalties.

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

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

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

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

24          (e) Any second or subsequent violation not within the

1 12-month time period after the first violation is punishable as  
2 provided for a first violation.

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

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

24 (g-5) A violation of subsection (d) of Section 1 of this  
25 Act, other than a violation involving the sale or distribution  
26 of a tobacco product to a minor under the age of 18, is a petty

1 offense punishable by a fine of not more than \$50 for each  
2 violation. Such a violation may be satisfied without a court  
3 appearance by a written plea of guilty and payment of all  
4 applicable fines, penalties, and costs.

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

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

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

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

14 (Text of Section after amendment by P.A. 98-1055)

15 Sec. 2. Penalties.

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

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

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

1 Tax Act of 1995.

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

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

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

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

26 (e) Any second or subsequent violation not within the

1 12-month time period after the first violation is punishable as  
2 provided for a first violation.

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

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

24 (g-5) A violation of subsection (d) of Section 1 of this  
25 Act, other than a violation involving the sale or distribution  
26 of a tobacco product to a minor under the age of 18, is a petty

1 offense punishable by a fine of not more than \$50 for each  
2 violation. Such a violation may be satisfied without a court  
3 appearance by a written plea of guilty and payment of all  
4 applicable fines, penalties, and costs.

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

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

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

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

16 (Source: P.A. 98-350, eff. 1-1-14; 98-1055, eff. 1-1-16.)

17 Section 95. No acceleration or delay. Where this Act makes  
18 changes in a statute that is represented in this Act by text  
19 that is not yet or no longer in effect (for example, a Section  
20 represented by multiple versions), the use of that text does  
21 not accelerate or delay the taking effect of (i) the changes  
22 made by this Act or (ii) provisions derived from any other  
23 Public Act.