

1 AN ACT concerning revenue.

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 1 as follows:

6 (35 ILCS 130/1) (from Ch. 120, par. 453.1)

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

8 "Brand Style" means a variety of cigarettes distinguished  
9 by the tobacco used, tar and nicotine content, flavoring used,  
10 size of the cigarette, filtration on the cigarette or  
11 packaging.

12 Until July 1, 2012, and beginning July 1, 2013,  
13 "cigarette", means any roll for smoking made wholly or in part  
14 of tobacco irrespective of size or shape and whether or not  
15 such tobacco is flavored, adulterated or mixed with any other  
16 ingredient, and the wrapper or cover of which is made of paper  
17 or any other substance or material except tobacco.

18 "Cigarette", beginning on and after July 1, 2012, and  
19 through June 30, 2013, means any roll for smoking made wholly  
20 or in part of tobacco irrespective of size or shape and whether  
21 or not such tobacco is flavored, adulterated, or mixed with any  
22 other ingredient, and the wrapper or cover of which is made of  
23 paper.

1 "Cigarette", beginning on and after July 1, 2012, and  
2 through June 30, 2013, also shall mean: Any roll for smoking  
3 made wholly or in part of tobacco labeled as anything other  
4 than a cigarette or not bearing a label, if it meets two or  
5 more of the following criteria:

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

7 (b) the product is available for sale in cartons of ten  
8 packs;

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

12 (d) the product is of a length and diameter similar to  
13 commercially manufactured cigarettes;

14 (e) the product has a cellulose acetate or other  
15 integrated filter;

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

18 (g) other evidence that the product fits within the  
19 definition of cigarette.

20 "Contraband cigarettes" means:

21 (a) cigarettes that do not bear a required tax stamp  
22 under this Act;

23 (b) cigarettes for which any required federal taxes  
24 have not been paid;

25 (c) cigarettes that bear a counterfeit tax stamp;

26 (d) cigarettes that are manufactured, fabricated,

1 assembled, processed, packaged, or labeled by any person  
2 other than (i) the owner of the trademark rights in the  
3 cigarette brand or (ii) a person that is directly or  
4 indirectly authorized by such owner;

5 (e) cigarettes imported into the United States, or  
6 otherwise distributed, in violation of the federal  
7 Imported Cigarette Compliance Act of 2000 (Title IV of  
8 Public Law 106-476);

9 (f) cigarettes that have false manufacturing labels;

10 (g) cigarettes identified in Section 3-10(a)(1) of  
11 this Act;

12 (h) cigarettes that are improperly tax stamped,  
13 including cigarettes that bear a tax stamp of another state  
14 or taxing jurisdiction, or lack a tax stamp required by any  
15 political subdivision of Illinois; or

16 (i) cigarettes made or fabricated by a person holding a  
17 cigarette machine operator license under Section 1-20 of  
18 the Cigarette Machine Operators' Occupation Tax Act in the  
19 possession of manufacturers, distributors, secondary  
20 distributors, manufacturer representatives or other  
21 retailers for the purpose of resale, regardless of whether  
22 the tax has been paid on such cigarettes.

23 "Little cigar" has the meaning ascribed to that term in the  
24 Tobacco Products Tax Act of 1995.

25 "Person" means any natural individual, firm, partnership,  
26 association, joint stock company, joint adventure, public or

1 private corporation, however formed, limited liability  
2 company, or a receiver, executor, administrator, trustee,  
3 guardian or other representative appointed by order of any  
4 court.

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

21 "Department" means the Department of Revenue.

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

25 "Original Package" means the individual packet, box or  
26 other container whatsoever used to contain and to convey

1 cigarettes to the consumer.

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

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

12 (2) Any person who makes, manufactures or fabricates  
13 cigarettes in this State for sale in this State, except a  
14 person who makes, manufactures or fabricates cigarettes as  
15 a part of a correctional industries program for sale to  
16 residents incarcerated in penal institutions or resident  
17 patients of a State-operated mental health facility.

18 (3) Any person who makes, manufactures or fabricates  
19 cigarettes outside this State, which cigarettes are placed  
20 in original packages contained in sealed transparent  
21 wrappers, for delivery or shipment into this State, and who  
22 elects to qualify and is accepted by the Department as a  
23 distributor under Section 4b of this Act.

24 "Place of business" shall mean and include any place where  
25 cigarettes are sold or where cigarettes are manufactured,  
26 stored or kept for the purpose of sale or consumption,

1 including any vessel, vehicle, airplane, train or vending  
2 machine.

3 "Manufacturer representative" means a director, officer,  
4 or employee of a manufacturer who has obtained authority from  
5 the Department under Section 4f to maintain representatives in  
6 Illinois that provide or sell original packages of cigarettes  
7 made, manufactured, or fabricated by the manufacturer to  
8 retailers in compliance with Section 4f of this Act to promote  
9 cigarettes made, manufactured, or fabricated by the  
10 manufacturer.

11 "Business" means any trade, occupation, activity or  
12 enterprise engaged in for the purpose of selling cigarettes in  
13 this State.

14 "Retailer" means any person who engages in the making of  
15 transfers of the ownership of, or title to, cigarettes to a  
16 purchaser for use or consumption and not for resale in any  
17 form, for a valuable consideration. "Retailer" does not include  
18 a person:

19 (1) who transfers to residents incarcerated in penal  
20 institutions or resident patients of a State-operated  
21 mental health facility ownership of cigarettes made,  
22 manufactured, or fabricated as part of a correctional  
23 industries program; or

24 (2) who transfers cigarettes to a not-for-profit  
25 research institution that conducts tests concerning the  
26 health effects of tobacco products and who does not offer

1 the cigarettes for resale.

2 "Retailer" shall be construed to include any person who  
3 engages in the making of transfers of the ownership of, or  
4 title to, cigarettes to a purchaser, for use or consumption by  
5 any other person to whom such purchaser may transfer the  
6 cigarettes without a valuable consideration, except a person  
7 who transfers to residents incarcerated in penal institutions  
8 or resident patients of a State-operated mental health facility  
9 ownership of cigarettes made, manufactured or fabricated as  
10 part of a correctional industries program.

11 "Secondary distributor" means any person engaged in the  
12 business of selling cigarettes who purchases stamped original  
13 packages of cigarettes from a licensed distributor under this  
14 Act or the Cigarette Use Tax Act, sells 75% or more of those  
15 cigarettes to retailers for resale, and maintains an  
16 established business where a substantial stock of cigarettes is  
17 available to retailers for resale.

18 "Stamp" or "stamps" mean the indicia required to be affixed  
19 on a pack of cigarettes that evidence payment of the tax on  
20 cigarettes under Section 2 of this Act.

21 "Related party" means any person that is associated with  
22 any other person because he or she:

23 (a) is an officer or director of a business; or

24 (b) is legally recognized as a partner in business.

25 (Source: P.A. 97-587, eff. 8-26-11; 97-688, eff. 6-14-12;  
26 98-273, eff. 8-9-13.)

1           Section 99. Effective date. This Act takes effect upon  
2 becoming law.