



Sen. Julie A. Morrison

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LRB099 11078 HLH 34610 a

1 AMENDMENT TO SENATE BILL 1919

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1919 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Cigarette Tax Act is amended by changing  
5 Sections 4g, 6, 11, and 11c as follows:

6 (35 ILCS 130/4g)

7 (This Section may contain text from a Public Act with a  
8 delayed effective date)

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:

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

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

5 (3) such other additional information as the  
6 Department may lawfully require by its rules and  
7 regulations.

8 The annual license fee payable to the Department for each  
9 retailer's license shall be \$75. The fee shall be deposited  
10 into the Tax Compliance and Administration Fund and shall be  
11 for the cost of tobacco retail inspection and contraband  
12 tobacco and tobacco smuggling with at least two-thirds of the  
13 money being used for contraband tobacco and tobacco smuggling  
14 operations and enforcement.

15 Each applicant for a license shall pay the fee to the  
16 Department at the time of submitting its application for a  
17 license to the Department. The Department shall require an  
18 applicant for a license under this Section to electronically  
19 file and pay the fee.

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

24 The following are ineligible to receive a retailer's  
25 license under this Act:

26 (1) a person who has been convicted of a felony related

1 to the illegal transportation, sale, or distribution of  
2 cigarettes, or a tobacco-related felony, under any federal  
3 or State law, if the Department, after investigation and a  
4 hearing if requested by the applicant, determines that the  
5 person has not been sufficiently rehabilitated to warrant  
6 the public trust; or

7 (2) a corporation, if any officer, manager, or director  
8 thereof, or any stockholder or stockholders owning in the  
9 aggregate more than 5% of the stock of such corporation,  
10 would not be eligible to receive a license under this Act  
11 for any reason.

12 The Department, upon receipt of an application and license  
13 fee, in proper form, from a person who is eligible to receive a  
14 retailer's license under this Act, shall issue to such  
15 applicant a license in form as prescribed by the Department.  
16 That license shall permit the applicant to whom it is issued to  
17 engage in business as a retailer under this Act at the place  
18 shown in his or her application. All licenses issued by the  
19 Department under this Section shall be valid for a period not  
20 to exceed one year after issuance unless sooner revoked,  
21 canceled, or suspended as provided in this Act. No license  
22 issued under this Section is transferable or assignable. The  
23 license shall be conspicuously displayed in the place of  
24 business conducted by the licensee in Illinois under such  
25 license. The Department shall not issue a retailer's license to  
26 a retailer unless the retailer is also registered under the

1 Retailers' Occupation Tax Act. A person who obtains a license  
2 as a retailer who ceases to do business as specified in the  
3 license, or who never commenced business, ~~or who obtains a~~  
4 ~~distributor's license,~~ or whose license is suspended or  
5 revoked, shall immediately surrender the license to the  
6 Department.

7 Any person aggrieved by any decision of the Department  
8 under this Section ~~subsection~~ may, within 30 days after notice  
9 of the decision, protest and request a hearing. Upon receiving  
10 a request for a hearing, the Department shall give written  
11 notice to the person requesting the hearing of the time and  
12 place fixed for the hearing and shall hold a hearing in  
13 conformity with the provisions of this Act and then issue its  
14 final administrative decision in the matter to that person. In  
15 the absence of a protest and request for a hearing within 30  
16 days, the Department's decision shall become final without any  
17 further determination being made or notice given.

18 (Source: P.A. 98-1055, eff. 1-1-16; revised 12-1-14.)

19 (35 ILCS 130/6) (from Ch. 120, par. 453.6)

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

21 Sec. 6. Revocation, cancellation, or suspension of  
22 license. The Department may, after notice and hearing as  
23 provided for by this Act, revoke, cancel or suspend the license  
24 of any distributor or secondary distributor for the violation  
25 of any provision of this Act, or for noncompliance with any

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

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

25 Any distributor or secondary distributor aggrieved by any  
26 decision of the Department under this Section may, within 20

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

14 No license so revoked, as aforesaid, shall be reissued to  
15 any such distributor or secondary distributor within a period  
16 of 6 months after the date of the final determination of such  
17 revocation. No such license shall be reissued at all so long as  
18 the person who would receive the license is ineligible to  
19 receive a distributor's license under this Act for any one or  
20 more of the reasons provided for in Section 4 of this Act or is  
21 ineligible to receive a secondary distributor's license under  
22 this Act for any one or more of the reasons provided for in  
23 Section 4c of this Act.

24 The Department upon complaint filed in the circuit court  
25 may by injunction restrain any person who fails, or refuses, to  
26 comply with any of the provisions of this Act from acting as a

1 distributor or secondary distributor of cigarettes in this  
2 State.

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

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

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

1 secondary distributor, or retailer aggrieved by any decision of  
2 the Department with respect thereto may have the determination  
3 of the Department judicially reviewed, as herein provided.

4 The Department may revoke, cancel, or suspend the license  
5 of any distributor for a violation of the Tobacco Product  
6 Manufacturers' Escrow Enforcement Act as provided in Section 30  
7 of that Act. The Department may revoke, cancel, or suspend the  
8 license of any secondary distributor for a violation of  
9 subsection (e) of Section 15 of the Tobacco Product  
10 Manufacturers' Escrow Enforcement Act.

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

22 If the retailer does not have a training program that  
23 facilitates compliance with minimum-age tobacco laws, the  
24 Department shall suspend for 3 days the license of that  
25 retailer for a second violation of the Prevention of Tobacco  
26 Use by Minors and Sale and Distribution of Tobacco Products



1 Act, as provided in subsection (a-5) of Section 2 of that Act.

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

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

15 A training program that facilitates compliance with  
16 minimum-age tobacco laws must include at least the following  
17 elements: (i) it must explain that only individuals displaying  
18 valid identification demonstrating that they are 18 years of  
19 age or older shall be eligible to purchase cigarettes or  
20 tobacco products and † (ii) it must explain where a clerk can  
21 check identification for a date of birth; ~~and (iii) it must~~  
22 ~~explain the penalties that a clerk and retailer are subject to~~  
23 ~~for violations of the Prevention of Tobacco Use by Minors and~~  
24 ~~Sale and Distribution of Tobacco Products Act. The training may~~  
25 ~~be conducted electronically. Each retailer that has a training~~  
26 ~~program shall require each employee who completes the training~~

1 program to sign a form attesting that the employee has received  
2 and completed tobacco training. The form shall be kept in the  
3 employee's file and may be used to provide proof of training.

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

19 No license so revoked, as aforesaid, shall be reissued to  
20 any such distributor, secondary distributor, or retailer  
21 within a period of 6 months after the date of the final  
22 determination of such revocation. No such license shall be  
23 reissued at all so long as the person who would receive the  
24 license is ineligible to receive a distributor's license under  
25 this Act for any one or more of the reasons provided for in  
26 Section 4 of this Act, is ineligible to receive a secondary

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

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

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

12 (35 ILCS 130/11) (from Ch. 120, par. 453.11)

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

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

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

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

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

3 Sec. 11. Every distributor of cigarettes, who is required  
4 to procure a license under this Act, shall keep within  
5 Illinois, at his licensed address, complete and accurate  
6 records of cigarettes held, purchased, manufactured, brought  
7 in or caused to be brought in from without the State, and sold,  
8 or otherwise disposed of, and shall preserve and keep within  
9 Illinois at his licensed address all invoices, bills of lading,  
10 sales records, copies of bills of sale, inventory at the close  
11 of each period for which a return is required of all cigarettes  
12 on hand and of all cigarette revenue stamps, both affixed and  
13 unaffixed, and other pertinent papers and documents relating to  
14 the manufacture, purchase, sale or disposition of cigarettes.  
15 Every sales invoice issued by a licensed distributor to a  
16 retailer in this State shall contain the distributor's  
17 cigarette distributor license number unless the distributor  
18 has been granted a waiver by the Department in response to a  
19 written request in cases where (i) the distributor sells  
20 cigarettes only to retailers that are wholly-owned by the  
21 distributor or owned by a wholly-owned subsidiary of the  
22 distributor; (ii) the retailer obtains cigarettes only from the  
23 distributor requesting the waiver; and (iii) the distributor  
24 affixes the tax stamps to the original packages of cigarettes  
25 sold to the retailer. The distributor shall file a written

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

1 distributor at such premises shall be subject to revocation by  
2 the Department.

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

4 (35 ILCS 130/11c)

5 (This Section may contain text from a Public Act with a  
6 delayed effective date)

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

1 adopt rules that establish requirements, including record  
2 forms and formats, for records required to be kept and  
3 maintained by the retailer. The Department shall adopt rules  
4 regarding the maintenance and accessibility of records located  
5 out-of-State pursuant to the waiver provided under this Act.

6 For purposes of this Section, "records" means all data  
7 maintained by the retailer, including data on paper, microfilm,  
8 microfiche or any type of machine sensible data compilation.  
9 Those books, records, papers, and documents shall be preserved  
10 for a period of at least 3 years after the date of the  
11 documents, or the date of the entries appearing in the records,  
12 unless the Department, in writing, authorizes their  
13 destruction or disposal at an earlier date. At all times during  
14 the usual business hours of the day, any duly authorized agent  
15 or employee of the Department may enter any place of business  
16 of the retailer without a search warrant and may inspect the  
17 premises to determine whether any of the provisions of this Act  
18 are being violated. If such agent or employee is denied free  
19 access or is hindered or interfered with in making such  
20 examination as herein provided, the license of the retailer  
21 shall be subject to suspension or revocation by the Department.  
22 (Source: P.A. 98-1055, eff. 1-1-16.)

23 Section 10. The Tobacco Products Tax Act of 1995 is amended  
24 by changing Sections 10-21, 10-25, and 10-35 as follows:



1 (35 ILCS 143/10-21)

2 (This Section may contain text from a Public Act with a  
3 delayed effective date)

4 Sec. 10-21. Retailer's license. Beginning on January 1,  
5 2016, no person may engage in business as a retailer of tobacco  
6 products in this State without first having obtained a license  
7 from the Department. Application for license shall be made to  
8 the Department, by electronic means, in a form prescribed by  
9 the Department. Each applicant for a license under this Section  
10 shall furnish to the Department, in an electronic format  
11 established by the Department, the following information:

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

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

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

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

26 Each applicant for license shall pay such fee to the

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

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

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

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

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

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

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

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

21 Any person aggrieved by any decision of the Department  
22 under this Section ~~subsection~~ may, within 30 days after notice  
23 of the decision, protest and request a hearing. Upon receiving  
24 a request for a hearing, the Department shall give notice to  
25 the person requesting the hearing of the time and place fixed  
26 for the hearing and shall hold a hearing in conformity with the

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

6 (Source: P.A. 98-1055, eff. 1-1-16; revised 12-1-14.)

7 (35 ILCS 143/10-25)

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

9 Sec. 10-25. License actions. The Department may, after  
10 notice and a hearing, revoke, cancel, or suspend the license of  
11 any distributor who violates any of the provisions of this Act.  
12 The notice shall specify the alleged violation or violations  
13 upon which the revocation, cancellation, or suspension  
14 proceeding is based.

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

19 The Department may, by application to any circuit court,  
20 obtain an injunction restraining any person who engages in  
21 business as a distributor of tobacco products without a license  
22 (either because his or her license has been revoked, canceled,  
23 or suspended or because of a failure to obtain a license in the  
24 first instance) from engaging in that business until that  
25 person, as if that person were a new applicant for a license,

1 complies with all of the conditions, restrictions, and  
2 requirements of Section 10-20 of this Act and qualifies for and  
3 obtains a license. Refusal or neglect to obey the order of the  
4 court may result in punishment for contempt.

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

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

7 Sec. 10-25. License actions.

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

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

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

1 Distribution of Tobacco Products Act occurring at the  
2 retailer's licensed location, during a 24-month period, shall  
3 be counted as a violation against the retailer.

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

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

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

23 A training program that facilitates compliance with  
24 minimum-age tobacco laws must include at least the following  
25 elements: (i) it must explain that only individuals displaying  
26 valid identification demonstrating that they are 18 years of

1 age or older shall be eligible to purchase cigarettes or  
2 tobacco products and † (ii) it must explain where a clerk can  
3 check identification for a date of birth, ~~and (iii) it must~~  
4 ~~explain the penalties that a clerk and retailer are subject to~~  
5 ~~for violations of the Prevention of Tobacco Use by Minors and~~  
6 ~~Sale and Distribution of Tobacco Products Act. The training may~~  
7 ~~be conducted electronically. Each retailer that has a training~~  
8 ~~program shall require each employee who completes the training~~  
9 ~~program to sign a form attesting that the employee has received~~  
10 ~~and completed tobacco training. The form shall be kept in the~~  
11 ~~employee's file and may be used to provide proof of training.~~

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

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

24 (35 ILCS 143/10-35)

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

1           Sec. 10-35. Record keeping. Every distributor, as defined  
2 in Section 10-5, shall keep complete and accurate records of  
3 tobacco products held, purchased, manufactured, brought in or  
4 caused to be brought in from without the State, and tobacco  
5 products sold, or otherwise disposed of, and shall preserve and  
6 keep all invoices, bills of lading, sales records, and copies  
7 of bills of sale, the wholesale price for tobacco products sold  
8 or otherwise disposed of, an inventory of tobacco products  
9 prepared as of December 31 of each year or as of the last day of  
10 the distributor's fiscal year if he or she files federal income  
11 tax returns on the basis of a fiscal year, and other pertinent  
12 papers and documents relating to the manufacture, purchase,  
13 sale, or disposition of tobacco products. Books, records,  
14 papers, and documents that are required by this Act to be kept  
15 shall, at all times during the usual business hours of the day,  
16 be subject to inspection by the Department or its duly  
17 authorized agents and employees. The books, records, papers,  
18 and documents for any period with respect to which the  
19 Department is authorized to issue a notice of tax liability  
20 shall be preserved until the expiration of that period.

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

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

23           Sec. 10-35. Record keeping.

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



1 purchased, manufactured, brought in or caused to be brought in  
2 from without the State, and tobacco products sold, or otherwise  
3 disposed of, and shall preserve and keep all invoices, bills of  
4 lading, sales records, and copies of bills of sale, the  
5 wholesale price for tobacco products sold or otherwise disposed  
6 of, an inventory of tobacco products prepared as of December 31  
7 of each year or as of the last day of the distributor's fiscal  
8 year if he or she files federal income tax returns on the basis  
9 of a fiscal year, and other pertinent papers and documents  
10 relating to the manufacture, purchase, sale, or disposition of  
11 tobacco products. Every sales invoice issued by a licensed  
12 distributor to a retailer in this State shall contain the  
13 distributor's Tobacco Products License number unless the  
14 distributor has been granted a waiver by the Department in  
15 response to a written request in cases where (i) the  
16 distributor sells cigarettes only to retailers that are  
17 wholly-owned by the distributor or owned by a wholly-owned  
18 subsidiary of the distributor; (ii) the retailer obtains  
19 cigarettes only from the distributor requesting the waiver; and  
20 (iii) the distributor affixes the tax stamps to the original  
21 packages of cigarettes sold to the retailer. The distributor  
22 shall file a written request with the Department, and, if the  
23 Department determines that the distributor meets the  
24 conditions for a waiver, the Department shall grant the waiver.

25 (b) Every retailer, as defined in Section 10-5, shall keep  
26 complete and accurate records of tobacco products held,

1 purchased, sold, or otherwise disposed of, and shall preserve  
2 and keep all invoices, bills of lading, sales records, and  
3 copies of bills of sale, returns and other pertinent papers and  
4 documents relating to the purchase, sale, or disposition of  
5 tobacco products. Such records need not be maintained on the  
6 licensed premises, but must be maintained in the State of  
7 Illinois; however, if access is available electronically, the  
8 records may be maintained out of state. However, all original  
9 invoices or copies thereof covering purchases of tobacco  
10 products must be retained on the licensed premises for a period  
11 of 90 days after such purchase, unless the Department has  
12 granted a waiver in response to a written request in cases  
13 where records are kept at a central business location within  
14 the State of Illinois or in cases where records that are  
15 available electronically are maintained out of state. The  
16 Department shall adopt rules regarding the maintenance and  
17 accessibility of records located out-of-State pursuant to the  
18 waiver provided under this Act.

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

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

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

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

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

7 Sec. 2. Penalties.

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

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 15 hours of community service or a fine of \$25 for  
16 a first violation.

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

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

1           (e) Any second or subsequent violation not within the  
2 12-month time period after the first violation is punishable as  
3 provided for a first violation.

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

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

25           (h) All moneys collected as fines for violations of  
26 subsection (a), (a-5), (a-6), or (a-7) of Section 1 shall be

1 distributed in the following manner:

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

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

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

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

9 Sec. 2. Penalties.

10 (a) 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 in a 24-month period, the person  
13 shall be fined \$200 if his or her employer has a training  
14 program that facilitates compliance with minimum-age tobacco  
15 laws. For the second offense in a 24-month period, the person  
16 shall be fined \$400 if his or her employer has a training  
17 program that facilitates compliance with minimum-age tobacco  
18 laws. For the third offense in a 24-month period, the person  
19 shall be fined \$600 if his or her employer has a training  
20 program that facilitates compliance with minimum-age tobacco  
21 laws. For the fourth or subsequent offense in a 24-month  
22 period, the person shall be fined \$800 if his or her employer  
23 has a training program that facilitates compliance with  
24 minimum-age tobacco laws. For the purposes of this subsection,  
25 the 24-month period shall begin with the person's first

1 violation of the Act. The penalties in this subsection are in  
2 addition to any other penalties prescribed under the Cigarette  
3 Tax Act and the Tobacco Products Tax Act of 1995.

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

22 (a-6) For the purpose of this Act, a training program that  
23 facilitates compliance with minimum-age tobacco laws must  
24 include at least the following elements: (i) it must explain  
25 that only individuals displaying valid identification  
26 demonstrating that they are 18 years of age or older shall be

1 eligible to purchase cigarettes or tobacco products and † (ii)  
2 it must explain where a clerk can check identification for a  
3 date of birth; ~~and (iii) it must explain the penalties that a~~  
4 ~~clerk and retailer are subject to for violations of the~~  
5 ~~Prevention of Tobacco Use by Minors and Sale and Distribution~~  
6 ~~of Tobacco Products Act. The training may be conducted~~  
7 electronically. Each retailer that has a training program shall  
8 require each employee who completes the training program to  
9 sign a form attesting that the employee has received and  
10 completed tobacco training. The form shall be kept in the  
11 employee's file and may be used to provide proof of training.

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 25 hours of community service and a fine of \$50 for  
15 a first violation. If a minor violates subsection (a-6) of  
16 Section 1, he or she is guilty of a Class A misdemeanor.

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

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

25 (e) Any second or subsequent violation not within the  
26 12-month time period after the first violation is punishable as

1 provided for a first violation.

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

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

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

26 (1) one-half of each fine shall be distributed to the



1 unit of local government or other entity that successfully  
2 prosecuted the offender; and

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

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

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

9 Section 95. No acceleration or delay. Where this Act makes  
10 changes in a statute that is represented in this Act by text  
11 that is not yet or no longer in effect (for example, a Section  
12 represented by multiple versions), the use of that text does  
13 not accelerate or delay the taking effect of (i) the changes  
14 made by this Act or (ii) provisions derived from any other  
15 Public Act.".