

1 AN ACT concerning tobacco.

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

4 Section 1. Short Title. This Act may be cited as the
5 Tobacco Product Manufacturers' Escrow Enforcement Act.

6 Section 5. Definitions. As used in this Act:

7 "Cigarette" has the same meaning as that term is defined
8 in Section 10 of the Tobacco Product Manufacturers' Escrow
9 Act.

10 "Distributor" has the same meaning as that term is
11 defined in Section 1 of the Cigarette Tax Act.

12 "Participating manufacturer" has the same meaning as that
13 term is defined in subdivision (a)(1) of Section 15 of the
14 Tobacco Product Manufacturers' Escrow Act.

15 "Qualified escrow fund" has the same meaning as that term
16 is defined in subdivision (a)(2)(A) of Section 15 of the
17 Tobacco Product Manufacturers' Escrow Act.

18 "Stamps" means (i) revenue tax stamps as provided for in
19 Section 3 of the Cigarette Tax Act and (ii) stamps evidencing
20 the payment of use tax as provided for in Section 3 of the
21 Cigarette Use Tax Act.

22 "Tobacco product manufacturer" has the same meaning as
23 that term is defined in Section 10 of the Tobacco Product
24 Manufacturers' Escrow Act.

25 Section 15. Distributor's determination of tobacco
26 product manufacturer compliance. A distributor may not affix,
27 or cause to be affixed, stamps to individual packages of
28 cigarettes delivered or caused to be delivered by the
29 distributor in this State if the tobacco product manufacturer
30 of those cigarettes has:

1 (1) failed to become a participating manufacturer; or
 2 (2) failed to create a qualified escrow fund for any
 3 cigarettes manufactured by the tobacco product manufacturer
 4 and sold in this State or otherwise failed to bring itself
 5 into compliance with subdivision (a)(2) of Section 15 of the
 6 Tobacco Product Manufacturers' Escrow Act.

7 Section 20. Penalties. A distributor who violates this
 8 Act is subject to the same penalties as provided in Section 6
 9 of the Cigarette Tax Act or Section 6 of the Cigarette Use
 10 Tax Act, as appropriate.

11 Section 25. Rules. The Illinois Attorney General, in
 12 consultation with the Illinois Department of Revenue, shall
 13 adopt rules as necessary to effectuate compliance with this
 14 Act and with the Tobacco Product Manufacturers' Escrow Act.

15 Section 905. The Tobacco Product Manufacturers' Escrow
 16 Act is amended by adding Section 20 as follows:

17 (30 ILCS 168/20 new)
 18 Sec. 20. Rules. The Illinois Attorney General, in
 19 consultation with the Illinois Department of Revenue, shall
 20 adopt rules as provided under Section 25 of the Tobacco
 21 Product Manufacturers' Escrow Enforcement Act.

22 Section 910. The Cigarette Tax Act is amended by
 23 changing Sections 3 and 6 as follows:

24 (35 ILCS 130/3) (from Ch. 120, par. 453.3)
 25 Sec. 3. Affixing tax stamp; remitting tax to the
 26 Department. Payment of the taxes imposed by Section 2 of
 27 this Act shall (except as hereinafter provided) be evidenced
 28 by revenue tax stamps affixed to each original package of

1 cigarettes. Each distributor of cigarettes, before delivering
2 or causing to be delivered any original package of cigarettes
3 in this State to a purchaser, shall firmly affix a proper
4 stamp or stamps to each such package, or (in case of
5 manufacturers of cigarettes in original packages which are
6 contained inside a sealed transparent wrapper) shall imprint
7 the required language on the original package of cigarettes
8 beneath such outside wrapper, as hereinafter provided.

9 No stamp or imprint may be affixed to, or made upon, any
10 package of cigarettes unless that package complies with all
11 requirements of the federal Cigarette Labeling and
12 Advertising Act, 15 U.S.C. 1331 and following, for the
13 placement of labels, warnings, or any other information upon
14 a package of cigarettes that is sold within the United
15 States. Under the authority of Section 6, the Department
16 shall revoke the license of any distributor that is
17 determined to have violated this paragraph. A person may not
18 affix a stamp on a package of cigarettes, cigarette papers,
19 wrappers, or tubes if that individual package has been marked
20 for export outside the United States with a label or notice
21 in compliance with Section 290.185 of Title 27 of the Code of
22 Federal Regulations. It is not a defense to a proceeding for
23 violation of this paragraph that the label or notice has been
24 removed, mutilated, obliterated, or altered in any manner.

25 The Department, or any person authorized by the
26 Department, shall sell such stamps only to persons holding
27 valid licenses as distributors under this Act. The Department
28 may refuse to sell stamps to any person who does not comply
29 with the provisions of this Act.

30 Prior to December 1, 1985, the Department shall allow a
31 distributor 21 days in which to make final payment of the
32 amount to be paid for such stamps, by allowing the
33 distributor to make payment for the stamps at the time of
34 purchasing them with a draft which shall be in such form as

1 the Department prescribes, and which shall be payable within
2 21 days thereafter: Provided that such distributor has filed
3 with the Department, and has received the Department's
4 approval of, a bond, which is in addition to the bond
5 required under Section 4 of this Act, payable to the
6 Department in an amount equal to 80% of such distributor's
7 average monthly tax liability to the Department under this
8 Act during the preceding calendar year or \$500,000, whichever
9 is less. The Bond shall be joint and several and shall be in
10 the form of a surety company bond in such form as the
11 Department prescribes, or it may be in the form of a bank
12 certificate of deposit or bank letter of credit. The bond
13 shall be conditioned upon the distributor's payment of amount
14 of any 21-day draft which the Department accepts from that
15 distributor for the delivery of stamps to that distributor
16 under this Act. The distributor's failure to pay any such
17 draft, when due, shall also make such distributor
18 automatically liable to the Department for a penalty equal to
19 25% of the amount of such draft.

20 On and after December 1, 1985, the Department shall allow
21 a distributor 30 days in which to make final payment of the
22 amount to be paid for such stamps, by allowing the
23 distributor to make payment for the stamps at the time of
24 purchasing them with a draft which shall be in such form as
25 the Department prescribes, and which shall be payable within
26 30 days thereafter, and beginning on January 1, 2003 and
27 thereafter, the draft shall be payable by means of electronic
28 funds transfer: Provided that such distributor has filed
29 with the Department, and has received the Department's
30 approval of, a bond, which is in addition to the bond
31 required under Section 4 of this Act, payable to the
32 Department in an amount equal to 150% of such distributor's
33 average monthly tax liability to the Department under this
34 Act during the preceding calendar year or \$750,000, whichever

1 is less, except that as to bonds filed on or after January 1,
2 1987, such additional bond shall be in an amount equal to
3 100% of such distributor's average monthly tax liability
4 under this Act during the preceding calendar year or
5 \$750,000, whichever is less. The bond shall be joint and
6 several and shall be in the form of a surety company bond in
7 such form as the Department prescribes, or it may be in the
8 form of a bank certificate of deposit or bank letter of
9 credit. The bond shall be conditioned upon the distributor's
10 payment of the amount of any 30-day draft which the
11 Department accepts from that distributor for the delivery of
12 stamps to that distributor under this Act. The distributor's
13 failure to pay any such draft, when due, shall also make such
14 distributor automatically liable to the Department for a
15 penalty equal to 25% of the amount of such draft.

16 Every prior continuous compliance taxpayer shall be
17 exempt from all requirements under this Section concerning
18 the furnishing of such bond, as defined in this Section, as a
19 condition precedent to his being authorized to engage in the
20 business licensed under this Act. This exemption shall
21 continue for each such taxpayer until such time as he may be
22 determined by the Department to be delinquent in the filing
23 of any returns, or is determined by the Department (either
24 through the Department's issuance of a final assessment which
25 has become final under the Act, or by the taxpayer's filing
26 of a return which admits tax to be due that is not paid) to
27 be delinquent or deficient in the paying of any tax under
28 this Act, at which time that taxpayer shall become subject to
29 the bond requirements of this Section and, as a condition of
30 being allowed to continue to engage in the business licensed
31 under this Act, shall be required to furnish bond to the
32 Department in such form as provided in this Section. Such
33 taxpayer shall furnish such bond for a period of 2 years,
34 after which, if the taxpayer has not been delinquent in the

1 filing of any returns, or delinquent or deficient in the
2 paying of any tax under this Act, the Department may
3 reinstate such person as a prior continuance compliance
4 taxpayer. Any taxpayer who fails to pay an admitted or
5 established liability under this Act may also be required to
6 post bond or other acceptable security with the Department
7 guaranteeing the payment of such admitted or established
8 liability.

9 Any person aggrieved by any decision of the Department
10 under this Section may, within the time allowed by law,
11 protest and request a hearing, whereupon the Department shall
12 give notice and shall hold a hearing in conformity with the
13 provisions of this Act and then issue its final
14 administrative decision in the matter to such person. In the
15 absence of such a protest filed within the time allowed by
16 law, the Department's decision shall become final without any
17 further determination being made or notice given.

18 The Department shall discharge any surety and shall
19 release and return any bond or security deposited, assigned,
20 pledged, or otherwise provided to it by a taxpayer under this
21 Section within 30 days after:

22 (1) Such taxpayer becomes a prior continuous compliance
23 taxpayer; or

24 (2) Such taxpayer has ceased to collect receipts on
25 which he is required to remit tax to the Department, has
26 filed a final tax return, and has paid to the Department an
27 amount sufficient to discharge his remaining tax liability as
28 determined by the Department under this Act. The Department
29 shall make a final determination of the taxpayer's
30 outstanding tax liability as expeditiously as possible after
31 his final tax return has been filed. If the Department
32 cannot make such final determination within 45 days after
33 receiving the final tax return, within such period it shall
34 so notify the taxpayer, stating its reasons therefor.

1 The Department may authorize distributors to affix
2 revenue tax stamps by imprinting tax meter stamps upon
3 original packages of cigarettes. The Department shall adopt
4 rules and regulations relating to the imprinting of such tax
5 meter stamps as will result in payment of the proper taxes as
6 herein imposed. No distributor may affix revenue tax stamps
7 to original packages of cigarettes by imprinting tax meter
8 stamps thereon unless such distributor has first obtained
9 permission from the Department to employ this method of
10 affixation. The Department shall regulate the use of tax
11 meters and may, to assure the proper collection of the taxes
12 imposed by this Act, revoke or suspend the privilege,
13 theretofore granted by the Department to any distributor, to
14 imprint tax meter stamps upon original packages of
15 cigarettes.

16 Illinois cigarette manufacturers who place their
17 cigarettes in original packages which are contained inside a
18 sealed transparent wrapper, and similar out-of-State
19 cigarette manufacturers who elect to qualify and are accepted
20 by the Department as distributors under Section 4b of this
21 Act, shall pay the taxes imposed by this Act by remitting the
22 amount thereof to the Department by the 5th day of each month
23 covering cigarettes shipped or otherwise delivered in
24 Illinois to purchasers during the preceding calendar month.
25 Such manufacturers of cigarettes in original packages which
26 are contained inside a sealed transparent wrapper, before
27 delivering such cigarettes or causing such cigarettes to be
28 delivered in this State to purchasers, shall evidence their
29 obligation to remit the taxes due with respect to such
30 cigarettes by imprinting language to be prescribed by the
31 Department on each original package of such cigarettes
32 underneath the sealed transparent outside wrapper of such
33 original package, in such place thereon and in such manner as
34 the Department may designate. Such imprinted language shall

1 acknowledge the manufacturer's payment of or liability for
2 the tax imposed by this Act with respect to the distribution
3 of such cigarettes.

4 No person may affix, or cause to be affixed, any stamp or
5 imprint to a package of cigarettes, as provided for in this
6 Section, unless the tobacco product manufacturer, as defined
7 in Section 10 of the Tobacco Product Manufacturers' Escrow
8 Act, that made or sold the cigarettes is a participating
9 manufacturer, as defined in subdivision (a)(1) of Section 15
10 of the Tobacco Product Manufacturers' Escrow Act, or has made
11 all escrow payments required by subdivision (a)(2)(A) of
12 Section 15 of the Tobacco Product Manufacturers' Escrow Act.
13 (Source: P.A. 91-246, eff. 7-22-99; 92-322, eff. 1-1-02.)

14 (35 ILCS 130/6) (from Ch. 120, par. 453.6)

15 Sec. 6. Revocation, cancellation, or suspension of
16 license. The Department may, after notice and hearing as
17 provided for by this Act, revoke, cancel or suspend the
18 license of any distributor for the violation of any provision
19 of this Act, or for noncompliance with any provision herein
20 contained, or for any noncompliance with any lawful rule or
21 regulation promulgated by the Department under Section 8 of
22 this Act, or because the licensee is determined to be
23 ineligible for a distributor's license for any one or more of
24 the reasons provided for in Section 4 of this Act. However,
25 no such license shall be revoked, cancelled or suspended,
26 except after a hearing by the Department with notice to the
27 distributor, as aforesaid, and affording such distributor a
28 reasonable opportunity to appear and defend, and any
29 distributor aggrieved by any decision of the Department with
30 respect thereto may have the determination of the Department
31 judicially reviewed, as herein provided.

32 The Department may revoke, cancel, or suspend the license
33 of any distributor for a violation of the Tobacco Product

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

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

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

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

28 (Source: P.A. 91-901, eff. 1-1-01.)

29 Section 915. The Cigarette Use Tax Act is amended by
30 changing Sections 3 and 6 as follows:

31 (35 ILCS 135/3) (from Ch. 120, par. 453.33)

32 Sec. 3. Stamp payment. The tax hereby imposed shall be

1 collected by a distributor maintaining a place of business in
2 this State or a distributor authorized by the Department
3 pursuant to Section 7 hereof to collect the tax, and the
4 amount of the tax shall be added to the price of the
5 cigarettes sold by such distributor. Collection of the tax
6 shall be evidenced by a stamp or stamps affixed to each
7 original package of cigarettes or by an authorized substitute
8 for such stamp imprinted on each original package of such
9 cigarettes underneath the sealed transparent outside wrapper
10 of such original package, except as hereinafter provided.
11 Each distributor who is required or authorized to collect the
12 tax herein imposed, before delivering or causing to be
13 delivered any original packages of cigarettes in this State
14 to any purchaser, shall firmly affix a proper stamp or stamps
15 to each such package, or (in the case of manufacturers of
16 cigarettes in original packages which are contained inside a
17 sealed transparent wrapper) shall imprint the required
18 language on the original package of cigarettes beneath such
19 outside wrapper as hereinafter provided. Such stamp or stamps
20 need not be affixed to the original package of any cigarettes
21 with respect to which the distributor is required to affix a
22 like stamp or stamps by virtue of the Cigarette Tax Act,
23 however, and no tax imprint need be placed underneath the
24 sealed transparent wrapper of an original package of
25 cigarettes with respect to which the distributor is required
26 or authorized to employ a like tax imprint by virtue of the
27 Cigarette Tax Act.

28 No stamp or imprint may be affixed to, or made upon, any
29 package of cigarettes unless that package complies with all
30 requirements of the federal Cigarette Labeling and
31 Advertising Act, 15 U.S.C. 1331 and following, for the
32 placement of labels, warnings, or any other information upon
33 a package of cigarettes that is sold within the United
34 States. Under the authority of Section 6, the Department

1 shall revoke the license of any distributor that is
2 determined to have violated this paragraph. A person may not
3 affix a stamp on a package of cigarettes, cigarette papers,
4 wrappers, or tubes if that individual package has been marked
5 for export outside the United States with a label or notice
6 in compliance with Section 290.185 of Title 27 of the Code of
7 Federal Regulations. It is not a defense to a proceeding for
8 violation of this paragraph that the label or notice has been
9 removed, mutilated, obliterated, or altered in any manner.

10 Stamps, when required hereunder, shall be purchased from
11 the Department, or any person authorized by the Department,
12 by distributors. The Department may refuse to sell stamps to
13 any person who does not comply with the provisions of this
14 Act.

15 Prior to December 1, 1985, the Department shall allow a
16 distributor 21 days in which to make final payment of the
17 amount to be paid for such stamps, by allowing the
18 distributor to make payment for the stamps at the time of
19 purchasing them with a draft which shall be in such form as
20 the Department prescribes, and which shall be payable within
21 21 days thereafter: Provided that such distributor has filed
22 with the Department, and has received the Department's
23 approval of, a bond, which is in addition to the bond
24 required under Section 4 of this Act, payable to the
25 Department in an amount equal to 80% of such distributor's
26 average monthly tax liability to the Department under this
27 Act during the preceding calendar year or \$500,000, whichever
28 is less. The bond shall be joint and several and shall be in
29 the form of a surety company bond in such form as the
30 Department prescribes, or it may be in the form of a bank
31 certificate of deposit or bank letter of credit. The bond
32 shall be conditioned upon the distributor's payment of the
33 amount of any 21-day draft which the Department accepts from
34 that distributor for the delivery of stamps to that

1 distributor under this Act. The distributor's failure to pay
2 any such draft, when due, shall also make such distributor
3 automatically liable to the Department for a penalty equal to
4 25% of the amount of such draft.

5 On and after December 1, 1985, the Department shall allow
6 a distributor 30 days in which to make final payment of the
7 amount to be paid for such stamps, by allowing the
8 distributor to make payment for the stamps at the time of
9 purchasing them with a draft which shall be in such form as
10 the Department prescribes, and which shall be payable within
11 30 days thereafter, and beginning on January 1, 2003 and
12 thereafter, the draft shall be payable by means of electronic
13 funds transfer: Provided that such distributor has filed
14 with the Department, and has received the Department's
15 approval of, a bond, which is in addition to the bond
16 required under Section 4 of this Act, payable to the
17 Department in an amount equal to 150% of such distributor's
18 average monthly tax liability to the Department under this
19 Act during the preceding calendar year or \$750,000, whichever
20 is less, except that as to bonds filed on or after January 1,
21 1987, such additional bond shall be in an amount equal to
22 100% of such distributor's average monthly tax liability
23 under this Act during the preceding calendar year or
24 \$750,000, whichever is less. The bond shall be joint and
25 several and shall be in the form of a surety company bond in
26 such form as the Department prescribes, or it may be in the
27 form of a bank certificate of deposit or bank letter of
28 credit. The bond shall be conditioned upon the distributor's
29 payment of the amount of any 30-day draft which the
30 Department accepts from that distributor for the delivery of
31 stamps to that distributor under this Act. The distributor's
32 failure to pay any such draft, when due, shall also make such
33 distributor automatically liable to the Department for a
34 penalty equal to 25% of the amount of such draft.

1 Every prior continuous compliance taxpayer shall be
2 exempt from all requirements under this Section concerning
3 the furnishing of such bond, as defined in this Section, as a
4 condition precedent to his being authorized to engage in the
5 business licensed under this Act. This exemption shall
6 continue for each such taxpayer until such time as he may be
7 determined by the Department to be delinquent in the filing
8 of any returns, or is determined by the Department (either
9 through the Department's issuance of a final assessment which
10 has become final under the Act, or by the taxpayer's filing
11 of a return which admits tax to be due that is not paid) to
12 be delinquent or deficient in the paying of any tax under
13 this Act, at which time that taxpayer shall become subject to
14 the bond requirements of this Section and, as a condition of
15 being allowed to continue to engage in the business licensed
16 under this Act, shall be required to furnish bond to the
17 Department in such form as provided in this Section. Such
18 taxpayer shall furnish such bond for a period of 2 years,
19 after which, if the taxpayer has not been delinquent in the
20 filing of any returns, or delinquent or deficient in the
21 paying of any tax under this Act, the Department may
22 reinstate such person as a prior continuance compliance
23 taxpayer. Any taxpayer who fails to pay an admitted or
24 established liability under this Act may also be required to
25 post bond or other acceptable security with the Department
26 guaranteeing the payment of such admitted or established
27 liability.

28 Any person aggrieved by any decision of the Department
29 under this Section may, within the time allowed by law,
30 protest and request a hearing, whereupon the Department shall
31 give notice and shall hold a hearing in conformity with the
32 provisions of this Act and then issue its final
33 administrative decision in the matter to such person. In the
34 absence of such a protest filed within the time allowed by

1 law, the Department's decision shall become final without any
2 further determination being made or notice given.

3 The Department shall discharge any surety and shall
4 release and return any bond or security deposited, assigned,
5 pledged, or otherwise provided to it by a taxpayer under this
6 Section within 30 days after:

7 (1) such Taxpayer becomes a prior continuous
8 compliance taxpayer; or

9 (2) such taxpayer has ceased to collect receipts on
10 which he is required to remit tax to the Department, has
11 filed a final tax return, and has paid to the Department
12 an amount sufficient to discharge his remaining tax
13 liability as determined by the Department under this Act.
14 The Department shall make a final determination of the
15 taxpayer's outstanding tax liability as expeditiously as
16 possible after his final tax return has been filed. If
17 the Department cannot make such final determination
18 within 45 days after receiving the final tax return,
19 within such period it shall so notify the taxpayer,
20 stating its reasons therefor.

21 At the time of purchasing such stamps from the Department
22 when purchase is required by this Act, or at the time when
23 the tax which he has collected is remitted by a distributor
24 to the Department without the purchase of stamps from the
25 Department when that method of remitting the tax that has
26 been collected is required or authorized by this Act, the
27 distributor shall be allowed a discount during any year
28 commencing July 1 and ending the following June 30 in
29 accordance with the schedule set out hereinbelow, from the
30 amount to be paid by him to the Department for such stamps,
31 or to be paid by him to the Department on the basis of
32 monthly remittances (as the case may be), to cover the cost,
33 to such distributor, of collecting the tax herein imposed by
34 affixing such stamps to the original packages of cigarettes

1 sold by such distributor or by placing tax imprints
2 underneath the sealed transparent wrapper of original
3 packages of cigarettes sold by such distributor (as the case
4 may be): (1) Prior to December 1, 1985, a discount equal to
5 1-2/3% of the amount of the tax up to and including the first
6 \$700,000 paid hereunder by such distributor to the Department
7 during any such year; 1-1/3% of the next \$700,000 of tax or
8 any part thereof, paid hereunder by such distributor to the
9 Department during any such year; 1% of the next \$700,000 of
10 tax, or any part thereof, paid hereunder by such distributor
11 to the Department during any such year; and 2/3 of 1% of the
12 amount of any additional tax paid hereunder by such
13 distributor to the Department during any such year or (2) On
14 and after December 1, 1985, a discount equal to 1.75% of the
15 amount of the tax payable under this Act up to and including
16 the first \$3,000,000 paid hereunder by such distributor to
17 the Department during any such year and 1.5% of the amount of
18 any additional tax paid hereunder by such distributor to the
19 Department during any such year.

20 Two or more distributors that use a common means of
21 affixing revenue tax stamps or that are owned or controlled
22 by the same interests shall be treated as a single
23 distributor for the purpose of computing the discount.

24 Cigarette manufacturers who are distributors under this
25 Act, and who place their cigarettes in original packages
26 which are contained inside a sealed transparent wrapper,
27 shall be required to remit the tax which they are required to
28 collect under this Act to the Department by remitting the
29 amount thereof to the Department by the 5th day of each
30 month, covering cigarettes shipped or otherwise delivered to
31 points in Illinois to purchasers during the preceding
32 calendar month, but a distributor need not remit to the
33 Department the tax so collected by him from purchasers under
34 this Act to the extent to which such distributor is required

1 to remit the tax imposed by the Cigarette Tax Act to the
2 Department with respect to the same cigarettes. All taxes
3 upon cigarettes under this Act are a direct tax upon the
4 retail consumer and shall conclusively be presumed to be
5 precollected for the purpose of convenience and facility
6 only. Distributors who are manufacturers of cigarettes in
7 original packages which are contained inside a sealed
8 transparent wrapper, before delivering such cigarettes or
9 causing such cigarettes to be delivered in this State to
10 purchasers, shall evidence their obligation to collect and
11 remit the tax due with respect to such cigarettes by
12 imprinting language to be prescribed by the Department on
13 each original package of such cigarettes underneath the
14 sealed transparent outside wrapper of such original package,
15 in such place thereon and in such manner as the Department
16 may prescribe; provided (as stated hereinbefore) that this
17 requirement does not apply when such distributor is required
18 or authorized by the Cigarette Tax Act to place the tax
19 imprint provided for in the last paragraph of Section 3 of
20 that Act underneath the sealed transparent wrapper of such
21 original package of cigarettes. Such imprinted language shall
22 acknowledge the manufacturer's collection and payment of or
23 liability for the tax imposed by this Act with respect to
24 such cigarettes.

25 The Department shall adopt the design or designs of the
26 tax stamps and shall procure the printing of such stamps in
27 such amounts and denominations as it deems necessary to
28 provide for the affixation of the proper amount of tax stamps
29 to each original package of cigarettes.

30 Where tax stamps are required, the Department may
31 authorize distributors to affix revenue tax stamps by
32 imprinting tax meter stamps upon original packages of
33 cigarettes. The Department shall adopt rules and regulations
34 relating to the imprinting of such tax meter stamps as will

1 result in payment of the proper taxes as herein imposed. No
2 distributor may affix revenue tax stamps to original packages
3 of cigarettes by imprinting meter stamps thereon unless such
4 distributor has first obtained permission from the Department
5 to employ this method of affixation. The Department shall
6 regulate the use of tax meters and may, to assure the proper
7 collection of the taxes imposed by this Act, revoke or
8 suspend the privilege, theretofore granted by the Department
9 to any distributor, to imprint tax meter stamps upon original
10 packages of cigarettes.

11 The tax hereby imposed and not paid pursuant to this
12 Section shall be paid to the Department directly by any
13 person using such cigarettes within this State, pursuant to
14 Section 12 hereof.

15 No person may affix, or cause to be affixed, any stamp or
16 imprint to a package of cigarettes, as provided for in this
17 Section, unless the tobacco product manufacturer, as defined
18 in Section 10 of the Tobacco Product Manufacturers' Escrow
19 Act, that made or sold the cigarettes is a participating
20 manufacturer, as defined in subdivision (a)(1) of Section 15
21 of the Tobacco Product Manufacturers' Escrow Act, or has made
22 all escrow payments required by subdivision (a)(2)(A) of
23 Section 15 of the Tobacco Product Manufacturers' Escrow Act.

24 (Source: P.A. 91-246, eff. 7-22-99; 92-322, eff. 1-1-02.)

25 (35 ILCS 135/6) (from Ch. 120, par. 453.36)

26 Sec. 6. Revocation, cancellation, or suspension of
27 license. The Department may, after notice and hearing as
28 provided for by this Act, revoke, cancel or suspend the
29 license of any distributor for the violation of any provision
30 of this Act, or for non-compliance with any provision herein
31 contained, or for any non-compliance with any lawful rule or
32 regulation promulgated by the Department under Section 21 of
33 this Act, or because the licensee is determined to be

1 ineligible for a distributor's license for any one or more of
2 the reasons provided for in Section 4 of this Act. However,
3 no such license shall be revoked, canceled or suspended,
4 except after a hearing by the Department with notice to the
5 distributor, as aforesaid, and affording such distributor a
6 reasonable opportunity to appear and defend, and any
7 distributor aggrieved by any decision of the Department with
8 respect thereto may have the determination of the Department
9 judicially reviewed, as herein provided.

10 The Department may revoke, cancel, or suspend the license
11 of any distributor for a violation of the Tobacco Product
12 Manufacturers' Escrow Enforcement Act as provided in Section
13 20 of that Act.

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

28 No license so revoked, shall be reissued to any such
29 distributor within a period of 6 months after the date of the
30 final determination of such revocation. No such license
31 shall be reissued at all so long as the person who would
32 receive the license is ineligible to receive a distributor's
33 license under this Act for any one or more of the reasons
34 provided for in Section 4 of this Act.

1 The Department upon complaint filed in the circuit court
2 may by injunction restrain any person who fails, or refuses,
3 to comply with this Act from acting as a distributor of
4 cigarettes in this State.

5 (Source: P.A. 91-901, eff. 1-1-01.)

6 Section 920. The Tobacco Products Tax Act of 1995 is
7 amended by changing Section 10-10 as follows:

8 (35 ILCS 143/10-10)

9 Sec. 10-10. Tax imposed. On the first day of the third
10 month after the month in which this Act becomes law, a tax is
11 imposed on any person engaged in business as a distributor of
12 tobacco products, as defined in Section 10-5, at the rate of
13 18% of the wholesale price of tobacco products sold or
14 otherwise disposed of to retailers or consumers located in
15 this State. The tax is in addition to all other occupation or
16 privilege taxes imposed by the State of Illinois, by any
17 political subdivision thereof, or by any municipal
18 corporation. However, the tax is not imposed upon any
19 activity in that business in interstate commerce or
20 otherwise, to the extent to which that activity may not,
21 under the Constitution and Statutes of the United States, be
22 made the subject of taxation by this State. The tax is also
23 not imposed on sales made to the United States or any entity
24 thereof.

25 All moneys received by the Department under this Act
26 shall be paid into the Long-Term Care Provider Fund of the
27 State Treasury.

28 No person may pay the tax levied under this Section on a
29 tobacco product defined as a cigarette under Section 10 of
30 the Tobacco Product Manufacturers' Escrow Act unless the
31 tobacco product manufacturer, as defined in Section 10 of the
32 Tobacco Product Manufacturers' Escrow Act, that made or sold

1 the cigarettes is a participating manufacturer, as defined in
2 subdivision (a)(1) of Section 15 of the Tobacco Product
3 Manufacturers' Escrow Act, or has made all escrow payments
4 required by subdivision (a)(2)(A) of Section 15 of the
5 Tobacco Product Manufacturers' Escrow Act.

6 (Source: P.A. 92-231, eff. 8-2-01.)

7 Section 999. Effective date. This Act takes effect upon
8 becoming law.