



Sen. Terry Link

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LRB095 05480 HLH 49320 a

1 AMENDMENT TO SENATE BILL 801

2 AMENDMENT NO. _____. Amend Senate Bill 801, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 3. The Retailers' Occupation Tax Act is amended by
6 changing Section 2a as follows:

7 (35 ILCS 120/2a) (from Ch. 120, par. 441a)

8 Sec. 2a. It is unlawful for any person to engage in the
9 business of selling tangible personal property at retail in
10 this State without a certificate of registration from the
11 Department. Application for a certificate of registration
12 shall be made to the Department upon forms furnished by it.
13 Each such application shall be signed and verified and shall
14 state: (1) the name and social security number of the
15 applicant; (2) the address of his principal place of business;
16 (3) the address of the principal place of business from which

1 he engages in the business of selling tangible personal
2 property at retail in this State and the addresses of all other
3 places of business, if any (enumerating such addresses, if any,
4 in a separate list attached to and made a part of the
5 application), from which he engages in the business of selling
6 tangible personal property at retail in this State; (4) the
7 name and address of the person or persons who will be
8 responsible for filing returns and payment of taxes due under
9 this Act; (5) in the case of a corporation, the name, title,
10 and social security number of each corporate officer; (6) in
11 the case of a limited liability company, the name, social
12 security number, and FEIN number of each manager and member;
13 and (7) such other information as the Department may reasonably
14 require. The application shall contain an acceptance of
15 responsibility signed by the person or persons who will be
16 responsible for filing returns and payment of the taxes due
17 under this Act. If the applicant will sell tangible personal
18 property at retail through vending machines, his application to
19 register shall indicate the number of vending machines to be so
20 operated; and thereafter, he shall notify the Department by
21 January 31 of the number of vending machines which such person
22 was using in his business of selling tangible personal property
23 at retail on the preceding December 31.

24 The Department may deny a certificate of registration to
25 any applicant if the owner, any partner, any manager or member
26 of a limited liability company, or a corporate officer of the

1 applicant, is or has been the owner, a partner, a manager or
2 member of a limited liability company, or a corporate officer,
3 of another retailer that is in default for moneys due under
4 this Act.

5 Every applicant for a certificate of registration
6 hereunder shall, at the time of filing such application,
7 furnish a bond from a surety company authorized to do business
8 in the State of Illinois, or an irrevocable bank letter of
9 credit or a bond signed by 2 personal sureties who have filed,
10 with the Department, sworn statements disclosing net assets
11 equal to at least 3 times the amount of the bond to be required
12 of such applicant, or a bond secured by an assignment of a bank
13 account or certificate of deposit, stocks or bonds, conditioned
14 upon the applicant paying to the State of Illinois all moneys
15 becoming due under this Act and under any other State tax law
16 or municipal or county tax ordinance or resolution under which
17 the certificate of registration that is issued to the applicant
18 under this Act will permit the applicant to engage in business
19 without registering separately under such other law, ordinance
20 or resolution. The Department shall fix the amount of such
21 security in each case, taking into consideration the amount of
22 money expected to become due from the applicant under this Act
23 and under any other State tax law or municipal or county tax
24 ordinance or resolution under which the certificate of
25 registration that is issued to the applicant under this Act
26 will permit the applicant to engage in business without

1 registering separately under such other law, ordinance or
2 resolution. The amount of security required by the Department
3 shall be such as, in its opinion, will protect the State of
4 Illinois against failure to pay the amount which may become due
5 from the applicant under this Act and under any other State tax
6 law or municipal or county tax ordinance or resolution under
7 which the certificate of registration that is issued to the
8 applicant under this Act will permit the applicant to engage in
9 business without registering separately under such other law,
10 ordinance or resolution, but the amount of the security
11 required by the Department shall not exceed three times the
12 amount of the applicant's average monthly tax liability, or
13 \$50,000.00, whichever amount is lower.

14 No certificate of registration under this Act shall be
15 issued by the Department until the applicant provides the
16 Department with satisfactory security as herein provided for.

17 Upon receipt of the application for certificate of
18 registration in proper form, and upon approval by the
19 Department of the security furnished by the applicant, the
20 Department shall issue to such applicant a certificate of
21 registration which shall permit the person to whom it is issued
22 to engage in the business of selling tangible personal property
23 at retail in this State. The certificate of registration shall
24 be conspicuously displayed at the place of business which the
25 person so registered states in his application to be the
26 principal place of business from which he engages in the

1 business of selling tangible personal property at retail in
2 this State.

3 No certificate of registration issued to a taxpayer who
4 files returns required by this Act on a monthly basis shall be
5 valid after the expiration of 5 years from the date of its
6 issuance or last renewal. The expiration date of a
7 sub-certificate of registration shall be that of the
8 certificate of registration to which the sub-certificate
9 relates. A certificate of registration shall automatically be
10 renewed, subject to revocation as provided by this Act, for an
11 additional 5 years from the date of its expiration unless
12 otherwise notified by the Department as provided by this
13 paragraph. Where a taxpayer to whom a certificate of
14 registration is issued under this Act is in default to the
15 State of Illinois for delinquent returns or for moneys due
16 under this Act or any other State tax law or municipal or
17 county ordinance administered or enforced by the Department,
18 the Department shall, not less than 120 days before the
19 expiration date of such certificate of registration, give
20 notice to the taxpayer to whom the certificate was issued of
21 the account period of the delinquent returns, the amount of
22 tax, penalty and interest due and owing from the taxpayer, and
23 that the certificate of registration shall not be automatically
24 renewed upon its expiration date unless the taxpayer, on or
25 before the date of expiration, has filed and paid the
26 delinquent returns or paid the defaulted amount in full. A

1 taxpayer to whom such a notice is issued shall be deemed an
2 applicant for renewal. The Department shall promulgate
3 regulations establishing procedures for taxpayers who file
4 returns on a monthly basis but desire and qualify to change to
5 a quarterly or yearly filing basis and will no longer be
6 subject to renewal under this Section, and for taxpayers who
7 file returns on a yearly or quarterly basis but who desire or
8 are required to change to a monthly filing basis and will be
9 subject to renewal under this Section.

10 The Department may in its discretion approve renewal by an
11 applicant who is in default if, at the time of application for
12 renewal, the applicant files all of the delinquent returns or
13 pays to the Department such percentage of the defaulted amount
14 as may be determined by the Department and agrees in writing to
15 waive all limitations upon the Department for collection of the
16 remaining defaulted amount to the Department over a period not
17 to exceed 5 years from the date of renewal of the certificate;
18 however, no renewal application submitted by an applicant who
19 is in default shall be approved if the immediately preceding
20 renewal by the applicant was conditioned upon the installment
21 payment agreement described in this Section. The payment
22 agreement herein provided for shall be in addition to and not
23 in lieu of the security required by this Section of a taxpayer
24 who is no longer considered a prior continuous compliance
25 taxpayer. The execution of the payment agreement as provided in
26 this Act shall not toll the accrual of interest at the

1 statutory rate.

2 The Department may suspend a certificate of registration if
3 the person to whom the certificate of registration has been
4 issued knowingly sells contraband or counterfeit cigarettes.

5 A certificate of registration issued under this Act more
6 than 5 years before the effective date of this amendatory Act
7 of 1989 shall expire and be subject to the renewal provisions
8 of this Section on the next anniversary of the date of issuance
9 of such certificate which occurs more than 6 months after the
10 effective date of this amendatory Act of 1989. A certificate of
11 registration issued less than 5 years before the effective date
12 of this amendatory Act of 1989 shall expire and be subject to
13 the renewal provisions of this Section on the 5th anniversary
14 of the issuance of the certificate.

15 If the person so registered states that he operates other
16 places of business from which he engages in the business of
17 selling tangible personal property at retail in this State, the
18 Department shall furnish him with a sub-certificate of
19 registration for each such place of business, and the applicant
20 shall display the appropriate sub-certificate of registration
21 at each such place of business. All sub-certificates of
22 registration shall bear the same registration number as that
23 appearing upon the certificate of registration to which such
24 sub-certificates relate.

25 If the applicant will sell tangible personal property at
26 retail through vending machines, the Department shall furnish

1 him with a sub-certificate of registration for each such
2 vending machine, and the applicant shall display the
3 appropriate sub-certificate of registration on each such
4 vending machine by attaching the sub-certificate of
5 registration to a conspicuous part of such vending machine.

6 Where the same person engages in 2 or more businesses of
7 selling tangible personal property at retail in this State,
8 which businesses are substantially different in character or
9 engaged in under different trade names or engaged in under
10 other substantially dissimilar circumstances (so that it is
11 more practicable, from an accounting, auditing or bookkeeping
12 standpoint, for such businesses to be separately registered),
13 the Department may require or permit such person (subject to
14 the same requirements concerning the furnishing of security as
15 those that are provided for hereinbefore in this Section as to
16 each application for a certificate of registration) to apply
17 for and obtain a separate certificate of registration for each
18 such business or for any of such businesses, under a single
19 certificate of registration supplemented by related
20 sub-certificates of registration.

21 Any person who is registered under the "Retailers'
22 Occupation Tax Act" as of March 8, 1963, and who, during the
23 3-year period immediately prior to March 8, 1963, or during a
24 continuous 3-year period part of which passed immediately
25 before and the remainder of which passes immediately after
26 March 8, 1963, has been so registered continuously and who is

1 determined by the Department not to have been either delinquent
2 or deficient in the payment of tax liability during that period
3 under this Act or under any other State tax law or municipal or
4 county tax ordinance or resolution under which the certificate
5 of registration that is issued to the registrant under this Act
6 will permit the registrant to engage in business without
7 registering separately under such other law, ordinance or
8 resolution, shall be considered to be a Prior Continuous
9 Compliance taxpayer. Also any taxpayer who has, as verified by
10 the Department, faithfully and continuously complied with the
11 condition of his bond or other security under the provisions of
12 this Act for a period of 3 consecutive years shall be
13 considered to be a Prior Continuous Compliance taxpayer.

14 Every Prior Continuous Compliance taxpayer shall be exempt
15 from all requirements under this Act concerning the furnishing
16 of security as a condition precedent to his being authorized to
17 engage in the business of selling tangible personal property at
18 retail in this State. This exemption shall continue for each
19 such taxpayer until such time as he may be determined by the
20 Department to be delinquent in the filing of any returns, or is
21 determined by the Department (either through the Department's
22 issuance of a final assessment which has become final under the
23 Act, or by the taxpayer's filing of a return which admits tax
24 that is not paid to be due) to be delinquent or deficient in
25 the paying of any tax under this Act or under any other State
26 tax law or municipal or county tax ordinance or resolution

1 under which the certificate of registration that is issued to
2 the registrant under this Act will permit the registrant to
3 engage in business without registering separately under such
4 other law, ordinance or resolution, at which time that taxpayer
5 shall become subject to all the financial responsibility
6 requirements of this Act and, as a condition of being allowed
7 to continue to engage in the business of selling tangible
8 personal property at retail, shall be required to post bond or
9 other acceptable security with the Department covering
10 liability which such taxpayer may thereafter incur. Any
11 taxpayer who fails to pay an admitted or established liability
12 under this Act may also be required to post bond or other
13 acceptable security with this Department guaranteeing the
14 payment of such admitted or established liability.

15 No certificate of registration shall be issued to any
16 person who is in default to the State of Illinois for moneys
17 due under this Act or under any other State tax law or
18 municipal or county tax ordinance or resolution under which the
19 certificate of registration that is issued to the applicant
20 under this Act will permit the applicant to engage in business
21 without registering separately under such other law, ordinance
22 or resolution.

23 Any person aggrieved by any decision of the Department
24 under this Section may, within 20 days after notice of such
25 decision, protest and request a hearing, whereupon the
26 Department shall give notice to such person of the time and

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

7 With respect to security other than bonds (upon which the
8 Department may sue in the event of a forfeiture), if the
9 taxpayer fails to pay, when due, any amount whose payment such
10 security guarantees, the Department shall, after such
11 liability is admitted by the taxpayer or established by the
12 Department through the issuance of a final assessment that has
13 become final under the law, convert the security which that
14 taxpayer has furnished into money for the State, after first
15 giving the taxpayer at least 10 days' written notice, by
16 registered or certified mail, to pay the liability or forfeit
17 such security to the Department. If the security consists of
18 stocks or bonds or other securities which are listed on a
19 public exchange, the Department shall sell such securities
20 through such public exchange. If the security consists of an
21 irrevocable bank letter of credit, the Department shall convert
22 the security in the manner provided for in the Uniform
23 Commercial Code. If the security consists of a bank certificate
24 of deposit, the Department shall convert the security into
25 money by demanding and collecting the amount of such bank
26 certificate of deposit from the bank which issued such

1 certificate. If the security consists of a type of stocks or
2 other securities which are not listed on a public exchange, the
3 Department shall sell such security to the highest and best
4 bidder after giving at least 10 days' notice of the date, time
5 and place of the intended sale by publication in the "State
6 Official Newspaper". If the Department realizes more than the
7 amount of such liability from the security, plus the expenses
8 incurred by the Department in converting the security into
9 money, the Department shall pay such excess to the taxpayer who
10 furnished such security, and the balance shall be paid into the
11 State Treasury.

12 The Department shall discharge any surety and shall release
13 and return any security deposited, assigned, pledged or
14 otherwise provided to it by a taxpayer under this Section
15 within 30 days after:

16 (1) such taxpayer becomes a Prior Continuous
17 Compliance taxpayer; or

18 (2) such taxpayer has ceased to collect receipts on
19 which he is required to remit tax to the Department, has
20 filed a final tax return, and has paid to the Department an
21 amount sufficient to discharge his remaining tax
22 liability, as determined by the Department, under this Act
23 and under every other State tax law or municipal or county
24 tax ordinance or resolution under which the certificate of
25 registration issued under this Act permits the registrant
26 to engage in business without registering separately under

1 such other law, ordinance or resolution. The Department
2 shall make a final determination of the taxpayer's
3 outstanding tax liability as expeditiously as possible
4 after his final tax return has been filed; if the
5 Department cannot make such final determination within 45
6 days after receiving the final tax return, within such
7 period it shall so notify the taxpayer, stating its reasons
8 therefor.

9 (Source: P.A. 90-491, eff. 1-1-98; 91-357, eff. 7-29-99.)

10 Section 5. The Cigarette Tax Act is amended by changing
11 Sections 1, 3, 3-10, 4, 20, and 21 and by adding Sections 3-15,
12 4d, and 4g as follows:

13 (35 ILCS 130/1) (from Ch. 120, par. 453.1)

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

15 "Brand Style" means a variety of cigarettes distinguished
16 by the tobacco used, tar and nicotine content, flavoring used,
17 size of the cigarette, filtration on the cigarette or
18 packaging. "Cigarette", ~~means any when used in this Act, shall~~
19 ~~be construed to mean: Any~~ roll for smoking made wholly or in
20 part of tobacco irrespective of size or shape and whether or
21 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 or any other substance or material except tobacco.

24 "Contraband cigarettes" means:

1 (a) cigarettes that do not bear a required tax stamp
2 under this Act;

3 (b) cigarettes for which any required federal taxes
4 have not been paid;

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

6 (d) cigarettes that are manufactured, fabricated,
7 assembled, processed, packaged, or labeled by any person
8 other than (i) the owner of the trademark rights in the
9 cigarette brand or (ii) a person that is directly or
10 indirectly authorized by such owner; or

11 (e) cigarettes imported into the United States, or
12 otherwise distributed, in violation of the federal
13 Imported Cigarette Compliance Act of 2000 (Title IV of
14 Public Law 106-476).

15 "Person" means any natural individual, firm, partnership,
16 association, joint stock company, joint adventure, public or
17 private corporation, however formed, limited liability
18 company, or a receiver, executor, administrator, trustee,
19 guardian or other representative appointed by order of any
20 court.

21 "Prior Continuous Compliance Taxpayer" means any person
22 who is licensed under this Act and who, having been a licensee
23 for a continuous period of 5 years, is determined by the
24 Department not to have been either delinquent or deficient in
25 the payment of tax liability during that period or otherwise in
26 violation of this Act. Also, any taxpayer who has, as verified

1 by the Department, continuously complied with the condition of
2 his bond or other security under provisions of this Act for a
3 period of 5 consecutive years shall be considered to be a
4 "Prior continuous compliance taxpayer". In calculating the
5 consecutive period of time described herein for qualification
6 as a "prior continuous compliance taxpayer", a consecutive
7 period of time of qualifying compliance immediately prior to
8 the effective date of this amendatory Act of 1987 shall be
9 credited to any licensee who became licensed on or before the
10 effective date of this amendatory Act of 1987.

11 "Department" means the Department of Revenue.

12 "Sale" means any transfer, exchange or barter in any manner
13 or by any means whatsoever for a consideration, and includes
14 and means all sales made by any person.

15 "Original Package" means the individual packet, box or
16 other container whatsoever used to contain and to convey
17 cigarettes to the consumer.

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

19 (1) Any person engaged in the business of selling
20 cigarettes in this State who brings or causes to be brought
21 into this State from without this State any original packages
22 of cigarettes, on which original packages there is no
23 authorized evidence underneath a sealed transparent wrapper
24 showing that the tax liability imposed by this Act has been
25 paid or assumed by the out-of-State seller of such cigarettes,
26 for sale or other disposition in the course of such business.

1 (2) Any person who makes, manufactures or fabricates
2 cigarettes in this State for sale in this State, except a
3 person who makes, manufactures or fabricates cigarettes as a
4 part of a correctional industries program for sale to residents
5 incarcerated in penal institutions or resident patients of a
6 State-operated mental health facility.

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

13 "Place of business" shall mean and include any place where
14 cigarettes are sold or where cigarettes are manufactured,
15 stored or kept for the purpose of sale or consumption,
16 including any vessel, vehicle, airplane, train or vending
17 machine.

18 "Business" means any trade, occupation, activity or
19 enterprise engaged in for the purpose of selling cigarettes in
20 this State.

21 "Retailer" means any person who engages in the making of
22 transfers of the ownership of, or title to, cigarettes to a
23 purchaser for use or consumption and not for resale in any
24 form, for a valuable consideration. "Retailer" does not include
25 a person:

26 (1) who transfers to residents incarcerated in penal

1 institutions or resident patients of a State-operated
2 mental health facility ownership of cigarettes made,
3 manufactured, or fabricated as part of a correctional
4 industries program; or

5 (2) who transfers cigarettes to a not-for-profit
6 research institution that conducts tests concerning the
7 health effects of tobacco products and who does not offer
8 the cigarettes for resale.

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

18 "Stamp" or "stamps" mean the indicia required to be placed
19 on a pack of cigarettes that evidence payment of the tax on
20 cigarettes under Section 2 of this Act (35 ILCS 130/2), or the
21 indicia used to indicate that the cigarettes are intended for a
22 sale or distribution within this State that is exempt from
23 State tax under any applicable provision of law.

24 "Within this State" means within the exterior limits of the
25 State of Illinois and includes all territory within these
26 limits owned by or ceded to the United States of America.

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

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

4 (b) is legally recognized as a partner in business; or

5 (c) is directly or indirectly controlled by another.

6 (Source: P.A. 95-462, eff. 8-27-07.)

7 (35 ILCS 130/3) (from Ch. 120, par. 453.3)

8 Sec. 3. Affixing tax stamp; remitting tax to the
9 Department. Payment of the taxes imposed by Section 2 of this
10 Act shall (except as hereinafter provided) be evidenced by
11 revenue tax stamps affixed to each original package of
12 cigarettes. Each distributor of cigarettes, before delivering
13 or causing to be delivered any original package of cigarettes
14 in this State to a purchaser, shall firmly affix a proper stamp
15 or stamps to each such package, or (in 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. Any stamp required by
20 this Act shall note whether the State tax under Section 2 of
21 this Act (35 ILCS 130/2) was paid or whether the pack of
22 cigarettes was not subject to such tax.

23 No stamp or imprint may be affixed to, or made upon, any
24 package of cigarettes unless that package complies with all
25 requirements of the federal Cigarette Labeling and Advertising

1 Act, 15 U.S.C. 1331 and following, for the placement of labels,
2 warnings, or any other information upon a package of cigarettes
3 that is sold within the United States. Under the authority of
4 Section 6, the Department shall revoke the license of any
5 distributor that is determined to have violated this paragraph.
6 A person may not affix a stamp on a package of cigarettes,
7 cigarette papers, wrappers, or tubes if that individual package
8 has been marked for export outside the United States with a
9 label or notice in compliance with Section 290.185 of Title 27
10 of the Code of Federal Regulations. It is not a defense to a
11 proceeding for violation of this paragraph that the label or
12 notice has been removed, mutilated, obliterated, or altered in
13 any manner.

14 Only distributors licensed under this Act or out-of-state
15 manufacturers holding a permit under this Act may receive
16 unstamped packs of cigarettes. Prior to shipment to another
17 person, each licensed distributor or out-of-state manufacturer
18 holding a permit shall apply a stamp to each pack of cigarettes
19 imported, distributed, or sold whether or not such cigarettes
20 are subject to State tax under Section 2 of this Act (35 ILCS
21 130/2) or any other provision of State law, provided that a
22 distributor or out-of-state manufacturer may only apply a tax
23 stamp to a pack of cigarettes purchased or obtained directly
24 from a licensed distributor or an out-of-state manufacturing
25 holding a permit. Only a licensed distributor or an
26 out-of-state manufacturer holding a permit may ship or

1 otherwise cause to be delivered unstamped packs of cigarettes
2 in, into, or from this State, provided that a licensed
3 distributor or an out-of-state manufacturer holding a permit
4 may transport unstamped packs of cigarettes to a facility,
5 wherever located, owned by such distributor or manufacturer.
6 Any person that ships or otherwise causes to be delivered
7 unstamped packs of cigarettes into, within, or from this State
8 shall ensure that the invoice or equivalent documentation and
9 the bill of lading or freight bill for the shipment identifies
10 the true name and address of the cosignor or seller, the true
11 name and address of the consignee or purchaser, and the quantity
12 by brand style of the cigarettes so transported, provided that
13 this Section shall not be construed as to impose any
14 requirement or liability upon any common or contract carrier.

15 The Department, or any person authorized by the Department,
16 shall sell such stamps only to persons holding valid licenses
17 as distributors under this Act. On and after July 1, 2003,
18 payment for such stamps must be made by means of electronic
19 funds transfer. The Department may refuse to sell stamps to any
20 person who does not comply with the provisions of this Act.
21 Beginning on the effective date of this amendatory Act of the
22 92nd General Assembly and through June 30, 2002, persons
23 holding valid licenses as distributors may purchase cigarette
24 tax stamps up to an amount equal to 115% of the distributor's
25 average monthly cigarette tax stamp purchases over the 12
26 calendar months prior to the effective date of this amendatory

1 Act of the 92nd General Assembly.

2 Prior to December 1, 1985, the Department shall allow a
3 distributor 21 days in which to make final payment of the
4 amount to be paid for such stamps, by allowing the distributor
5 to make payment for the stamps at the time of purchasing them
6 with a draft which shall be in such form as the Department
7 prescribes, and which shall be payable within 21 days
8 thereafter: Provided that such distributor has filed with the
9 Department, and has received the Department's approval of, a
10 bond, which is in addition to the bond required under Section 4
11 of this Act, payable to the Department in an amount equal to
12 80% of such distributor's average monthly tax liability to the
13 Department under this Act during the preceding calendar year or
14 \$500,000, whichever is less. The Bond shall be joint and
15 several and shall be in the form of a surety company bond in
16 such form as the Department prescribes, or it may be in the
17 form of a bank certificate of deposit or bank letter of credit.
18 The bond shall be conditioned upon the distributor's payment of
19 amount of any 21-day draft which the Department accepts from
20 that distributor for the delivery of stamps to that distributor
21 under this Act. The distributor's failure to pay any such
22 draft, when due, shall also make such distributor automatically
23 liable to the Department for a penalty equal to 25% of the
24 amount of such draft.

25 On and after December 1, 1985 and until July 1, 2003, the
26 Department shall allow a distributor 30 days in which to make

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

1 25% of the amount of such draft.

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

1 established liability.

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

11 The Department shall discharge any surety and shall release
12 and return any bond or security deposited, assigned, pledged,
13 or otherwise provided to it by a taxpayer under this Section
14 within 30 days after:

15 (1) Such taxpayer becomes a prior continuous compliance
16 taxpayer; or

17 (2) Such taxpayer has ceased to collect receipts on which
18 he is required to remit tax to the Department, has filed a
19 final tax return, and has paid to the Department an amount
20 sufficient to discharge his remaining tax liability as
21 determined by the Department under this Act. The Department
22 shall make a final determination of the taxpayer's outstanding
23 tax liability as expeditiously as possible after his final tax
24 return has been filed. If the Department cannot make such final
25 determination within 45 days after receiving the final tax
26 return, within such period it shall so notify the taxpayer,

1 stating its reasons therefor.

2 The Department may authorize distributors to affix revenue
3 tax stamps by imprinting tax meter stamps upon original
4 packages of cigarettes. The Department shall adopt rules and
5 regulations relating to the imprinting of such tax meter stamps
6 as will result in payment of the proper taxes as herein
7 imposed. No distributor may affix revenue tax stamps to
8 original packages of cigarettes by imprinting tax meter stamps
9 thereon unless such distributor has first obtained permission
10 from the Department to employ this method of affixation. The
11 Department shall regulate the use of tax meters and may, to
12 assure the proper collection of the taxes imposed by this Act,
13 revoke or suspend the privilege, theretofore granted by the
14 Department to any distributor, to imprint tax meter stamps upon
15 original packages of 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 cigarette
19 manufacturers who elect to qualify and are accepted by the
20 Department as distributors under Section 4b of this Act, shall
21 pay the taxes imposed by this Act by remitting the amount
22 thereof to the Department by the 5th day of each month covering
23 cigarettes shipped or otherwise delivered in Illinois to
24 purchasers during the preceding calendar month. Such
25 manufacturers of cigarettes in original packages which are
26 contained inside a sealed transparent wrapper, before

1 delivering such cigarettes or causing such cigarettes to be
2 delivered in this State to purchasers, shall evidence their
3 obligation to remit the taxes due with respect to such
4 cigarettes by imprinting language to be prescribed by the
5 Department on each original package of such cigarettes
6 underneath the sealed transparent outside wrapper of such
7 original package, in such place thereon and in such manner as
8 the Department may designate. Such imprinted language shall
9 acknowledge the manufacturer's payment of or liability for the
10 tax imposed by this Act with respect to the distribution of
11 such cigarettes.

12 A distributor shall not affix, or cause to be affixed, any
13 stamp or imprint to a package of cigarettes, as provided for in
14 this Section, if the tobacco product manufacturer, as defined
15 in Section 10 of the Tobacco Product Manufacturers' Escrow Act,
16 that made or sold the cigarettes has failed to become a
17 participating manufacturer, as defined in subdivision (a)(1)
18 of Section 15 of the Tobacco Product Manufacturers' Escrow Act,
19 or has failed to create a qualified escrow fund for any
20 cigarettes manufactured by the tobacco product manufacturer
21 and sold in this State or otherwise failed to bring itself into
22 compliance with subdivision (a)(2) of Section 15 of the Tobacco
23 Product Manufacturers' Escrow Act.

24 (Source: P.A. 92-322, eff. 1-1-02; 92-536, eff. 6-6-02; 92-737,
25 eff. 7-25-02; 93-22, eff. 6-20-03.)

1 (35 ILCS 130/3-10)

2 Sec. 3-10. Cigarette enforcement.

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

4 (1) to sell or distribute in this State; to acquire,
5 hold, own, possess, or transport, for sale or distribution
6 in this State; or to import, or cause to be imported into
7 this State for sale or distribution in this State:

8 (A) any cigarettes the package of which:

9 (i) bears any statement, label, stamp,
10 sticker, or notice indicating that the
11 manufacturer did not intend the cigarettes to be
12 sold, distributed, or used in the United States,
13 including but not limited to labels stating "For
14 Export Only", "U.S. Tax Exempt", "For Use Outside
15 U.S.", or similar wording; or

16 (ii) does not comply with:

17 (aa) all requirements imposed by or
18 pursuant to federal law regarding warnings and
19 other information on packages of cigarettes
20 manufactured, packaged, or imported for sale,
21 distribution, or use in the United States,
22 including but not limited to the precise
23 warning labels specified in the federal
24 Cigarette Labeling and Advertising Act, 15
25 U.S.C. 1333; and

26 (bb) all federal trademark and copyright

1 laws;

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

5 (C) any cigarettes that such person otherwise
6 knows or has reason to know the manufacturer did not
7 intend to be sold, distributed, or used in the United
8 States; or

9 (D) any cigarettes for which there has not been
10 submitted to the Secretary of the U.S. Department of
11 Health and Human Services the list or lists of the
12 ingredients added to tobacco in the manufacture of the
13 cigarettes required by the federal Cigarette Labeling
14 and Advertising Act, 15 U.S.C. 1335a;

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

18 (A) any statement, label, stamp, sticker, or
19 notice described in subdivision (a)(1)(A)(i) of this
20 Section;

21 (B) any health warning that is not specified in, or
22 does not conform with the requirements of, the federal
23 Cigarette Labeling and Advertising Act, 15 U.S.C.
24 1333; ~~or~~

25 (3) to affix any stamp required pursuant to this Act to
26 the package of any cigarettes described in subdivision

1 (a) (1) of this Section or altered in violation of
2 subdivision (a) (2); ~~or-~~

3 (4) to knowingly possess, or possess for sale,
4 contraband cigarettes.

5 (b) Documentation. On the first business day of each month,
6 each person licensed to affix the State tax stamp to cigarettes
7 shall file with the Department, for all cigarettes imported
8 into the United States to which the person has affixed the tax
9 stamp in the preceding month:

10 (1) a copy of:

11 (A) the permit issued pursuant to the Internal
12 Revenue Code, 26 U.S.C. 5713, to the person importing
13 the cigarettes into the United States allowing the
14 person to import the cigarettes; and

15 (B) the customs form containing, with respect to
16 the cigarettes, the internal revenue tax information
17 required by the U.S. Bureau of Alcohol, Tobacco and
18 Firearms;

19 (2) a statement, signed by the person under penalty of
20 perjury, which shall be treated as confidential by the
21 Department and exempt from disclosure under the Freedom of
22 Information Act, identifying the brand and brand styles of
23 all such cigarettes, the quantity of each brand style of
24 such cigarettes, the supplier of such cigarettes, and the
25 person or persons, if any, to whom such cigarettes have
26 been conveyed for resale; and a separate statement, signed

1 by the individual under penalty of perjury, which shall not
2 be treated as confidential or exempt from disclosure,
3 separately identifying the brands and brand styles of such
4 cigarettes; and

5 (3) a statement, signed by an officer of the
6 manufacturer or importer under penalty of perjury,
7 certifying that the manufacturer or importer has complied
8 with:

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

13 (B) the provisions of Exhibit T of the Master
14 Settlement Agreement entered in the case of People of
15 the State of Illinois v. Philip Morris, et al. (Circuit
16 Court of Cook County, No. 96-L13146), including a
17 statement indicating whether the manufacturer is, or
18 is not, a participating tobacco manufacturer within
19 the meaning of Exhibit T.

20 (c) Administrative sanctions.

21 (1) Upon finding that a distributor has committed any
22 of the acts prohibited by subsection (a), knowing or having
23 reason to know that he or she has done so, or has failed to
24 comply with any requirement of subsection (b), the
25 Department may revoke or suspend the license or licenses of
26 any distributor pursuant to the procedures set forth in

1 Section 6 and impose on the distributor a civil penalty in
2 an amount not to exceed the greater of 500% of the retail
3 value of the cigarettes involved or \$5,000.

4 (2) Cigarettes that are acquired, held, owned,
5 possessed, transported in, imported into, or sold or
6 distributed in this State in violation of this Section
7 shall be deemed contraband under this Act and are subject
8 to seizure and forfeiture as provided in this Act, and all
9 such cigarettes seized and forfeited shall be destroyed.
10 Such cigarettes shall be deemed contraband whether the
11 violation of this Section is knowing or otherwise.

12 (d) Unfair trade practices. A violation of subsection (a)
13 or subsection (b) of this Section shall constitute an unlawful
14 practice as provided in the Consumer Fraud and Deceptive
15 Business Practices Act.

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

25 (f) General provisions.

26 (1) This Section shall be enforced by the Department;

1 provided that, at the request of the Director of Revenue or
2 the Director's duly authorized agent, the State police and
3 all local police authorities shall enforce the provisions
4 of this Section. The Attorney General has concurrent power
5 with the State's Attorney of any county to enforce this
6 Section.

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

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

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

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

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

2 (h) Applicability.

3 (1) This Section does not apply to:

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

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

13 (2) The penalties provided in this Section are in
14 addition to any other penalties imposed under other
15 provision of law.

16 (Source: P.A. 91-810, eff. 6-13-00.)

17 (35 ILCS 130/3-15 new)

18 Sec. 3-15. Criminal and civil penalties.

19 (a) Civil penalties.

20 (1) Distributors and manufacturers. Except as
21 otherwise provided in this Section, a first violation of
22 any provision of this Act by a manufacturer or distributor
23 shall, in addition to any other penalty provided in this
24 Act, be punishable by a fine of \$5,000 for each separate
25 violation, which shall be recovered, with costs of suit, in

1 a civil action. Any subsequent violation of any provision
2 of this Act by a manufacturer or distributor shall be
3 punishable by a fine of \$10,000 for each separate
4 violation. In no case shall the fine imposed under this
5 paragraph exceed 10 times the retail value of the
6 cigarettes.

7 (2) Retailers. Except as otherwise provided in this
8 Section, a first violation of any provision of this Act by
9 a retailer shall, in addition to any other penalty provided
10 in this Act, be punishable by a fine of \$1,000 for each
11 separate violation, which shall be recovered, with costs of
12 suit, in a civil action. Any subsequent violation of any
13 provision of this Act by a retailer shall be punishable by
14 a fine of \$2,000 for each separate violation. In no case
15 shall the fine imposed under this paragraph exceed 10 times
16 the retail value of the cigarettes.

17 (3) Failure to pay tax. Any person that fails to pay
18 any tax imposed by this State at the time prescribed by law
19 or regulations shall, in addition to any other penalty
20 provided in this Act, be liable to a penalty of 3 times the
21 tax due but unpaid, to help defray the costs of detection
22 and investigation and any consequential damages. In no case
23 shall the fine imposed under this paragraph exceed 10 times
24 the retail value of the cigarettes.

25 (4) Civil forfeiture.

26 (A) All cigarettes which are held for sale or

1 distribution within this State in violation of the
2 requirements of this Act shall be forfeited to this
3 State. All cigarettes forfeited to this State under
4 this Act shall be destroyed. The Department may, prior
5 to any destruction of cigarettes, permit the true
6 holder of the trademark rights in the cigarette brand
7 to inspect such contraband cigarettes, in order to
8 assist the Department in any investigation regarding
9 such cigarettes.

10 (B) Any person that, with intent to defraud the
11 State:

12 (i) fails to keep or make any record, return,
13 report, or inventory required by this Act;

14 (ii) keeps or makes any false or fraudulent
15 record, return, report, or inventory required by
16 this Act;

17 (iii) refuses to pay any tax imposed by this
18 Act; or

19 (iv) attempts in any manner to evade or defeat
20 the requirements of this Act shall forfeit to the
21 State all fixtures, equipment, and other materials
22 with a substantial connection to such conduct.

23 (C) A distributor or retailer shall not be required
24 to forfeit fixtures, equipment, and all other
25 materials and personal property on the premises if such
26 distributor or retailer:

1 (i) acted in good faith;

2 (ii) was not involved in or aware of the
3 unlawful activity prohibited by this Act; and

4 (iii) did all that reasonably could be
5 expected under the circumstances to prevent
6 violations of this Act.

7 (5) Notwithstanding any other provision of law, the
8 Department may use proceeds from civil penalties imposed
9 under this Section to offset necessary and reasonable
10 expenses incurred in the detection and investigation of the
11 failure of any person to pay any cigarette tax imposed by
12 this State.

13 (b) Criminal penalties.

14 (1) Fraudulent offenses. Whoever intentionally fails
15 to comply with any of the requirements of this Act or
16 regulations prescribed hereunder shall, in addition to any
17 other penalty provided in this Act, for each such offense,
18 be guilty of a Class 3 felony.

19 (2) Knowing offenses. Whoever, knowingly violates any
20 of the requirements of this Act or regulations prescribed
21 hereunder shall, in addition to any other penalty provided
22 in this Act, for each such offense, be guilty of a Class 4
23 felony.

24 (3) Penalties for contraband. Notwithstanding any
25 other provision of law, the possession for sale of
26 contraband cigarettes by a manufacturer, distributor, or

1 retailer shall be punishable as follows:

2 (A) A person who commits a first knowing violation
3 shall be guilty of a Class 4 felony.

4 (B) A person who commits a subsequent knowing
5 violation shall be guilty of a Class 3 felony and shall
6 have his or her license, permit, or sub-certificate
7 revoked by the Department. In no case shall the fine
8 imposed under this paragraph exceed ten times the
9 retail value of the cigarettes.

10 (4) For purposes of this Section, the term contraband
11 cigarettes includes cigarettes that have false
12 manufacturing labels or packs of cigarettes bearing
13 counterfeit tax stamps. Any contraband cigarette seized by
14 this State shall be destroyed. The Department may, prior to
15 any destruction of cigarettes, permit the true holder of
16 the trademark rights in the cigarette brand to inspect such
17 contraband cigarettes, in order to assist the Department in
18 any investigation regarding such cigarettes.

19 (5) The penalties provided in paragraph (3) shall not
20 apply where a licensed distributor is in possession of
21 contraband cigarettes as a result of such cigarettes being
22 returned to the distributor by a retailer if such
23 distributor promptly notified appropriate law enforcement
24 authorities.

25 (6) Criminal forfeiture.

26 (A) Notwithstanding any other provision of law,

1 the possession for sale of contraband cigarettes by a
2 manufacturer, distributor, or retailer shall, after
3 notice and hearing, result in the forfeiture to this
4 State of the product and related machinery and
5 equipment used in the production of contraband
6 cigarettes, or to falsely mark cigarettes to reflect
7 the payment of excise taxes.

8 (B)The knowing sale or possession for sale of
9 contraband cigarettes shall, after notice and hearing,
10 result in the seizure of all related machinery and
11 equipment.

12 (C) All cigarettes forfeited to this State under
13 this Section shall be destroyed. The Department may,
14 prior to any destruction of cigarettes, permit the true
15 holder of the trademark rights in the cigarette brand
16 to inspect such contraband cigarettes, in order to
17 assist the Department in any investigation regarding
18 such cigarettes.

19 (35 ILCS 130/4) (from Ch. 120, par. 453.4)

20 Sec. 4. Distributor's license. No person may engage in
21 business as a distributor of cigarettes in this State within
22 the meaning of the first 2 definitions of distributor in
23 Section 1 of this Act without first having obtained a license
24 therefor from the Department. Application for license shall be
25 made to the Department in form as furnished and prescribed by

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

5 (a) The name and address of the applicant;

6 (b) The address of the location at which the applicant
7 proposes to engage in business as a distributor of
8 cigarettes in this State;

9 (c) Such other additional information as the
10 Department may lawfully require by its rules and
11 regulations.

12 The annual license fee payable to the Department for each
13 distributor's license shall be \$250. The purpose of such annual
14 license fee is to defray the cost, to the Department, of
15 serializing cigarette tax stamps. Each applicant for license
16 shall pay such fee to the Department at the time of submitting
17 his application for license to the Department.

18 Every applicant who is required to procure a distributor's
19 license shall file with his application a joint and several
20 bond. Such bond shall be executed to the Department of Revenue,
21 with good and sufficient surety or sureties residing or
22 licensed to do business within the State of Illinois, in the
23 amount of \$2,500, conditioned upon the true and faithful
24 compliance by the licensee with all of the provisions of this
25 Act. Such bond, or a reissue thereof, or a substitute therefor,
26 shall be kept in effect during the entire period covered by the

1 license. A separate application for license shall be made, a
2 separate annual license fee paid, and a separate bond filed,
3 for each place of business at which a person who is required to
4 procure a distributor's license under this Section proposes to
5 engage in business as a distributor in Illinois under this Act.

6 The following are ineligible to receive a distributor's
7 license under this Act:

8 (1) a person who is not of good character and
9 reputation in the community in which he resides;

10 (2) a person who has been convicted of a felony
11 under any Federal or State law, if the Department,
12 after investigation and a hearing, if requested by the
13 applicant, determines that such person has not been
14 sufficiently rehabilitated to warrant the public
15 trust;

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

21 (4) a person, or any person who owns more than 15
22 percent of the ownership interests in a person or a
23 related party who:

24 (a) owes, at the time of application, \$500 or
25 more in delinquent cigarette taxes that have been
26 determined by law to be due and unpaid, unless the

1 license applicant has entered into an agreement
2 approved by the Department to pay the amount due;

3 (b) had a license under this Act revoked within
4 the past two years by the Department for willful
5 misconduct relating to stolen or contraband
6 cigarettes or has been convicted of a State or
7 federal crime, punishable by imprisonment of one
8 year or more, relating to stolen or contraband
9 cigarettes;

10 (c) is a distributor who manufactures
11 cigarettes who is neither (i) a participating
12 manufacturer as defined in subsection II(jj) of
13 the "Master Settlement Agreement" as defined in
14 Sections 10 of the Tobacco Products Manufacturers'
15 Escrow Act and the Tobacco Products Manufacturers'
16 Escrow Enforcement Act of 2003 (30 ILCS 168/10 and
17 30 ILCS 167/10); nor (ii) in full compliance with
18 Tobacco Products Manufacturers' Escrow Act and the
19 Tobacco Products Manufacturers' Escrow Enforcement
20 Act of 2003 (30 ILCS 168/ and 30 ILCS 167/);

21 (d) has been found to have willfully imported
22 or caused to be imported into the United States for
23 sale or distribution any cigarette in violation of
24 19 U.S.C. 1681a;

25 (e) has been found to have willfully imported
26 or caused to be imported into the United States for

1 sale or distribution or manufactured for sale or
2 distribution in the United States any cigarette
3 that does not fully comply with the Federal
4 Cigarette Labeling and Advertising Act (15 U.S.C.
5 1331, et. seq.); or

6 (f) has willfully made a material false
7 statement in the application or has willfully
8 failed to produce records required to be
9 maintained by this Act.

10 The Department, upon receipt of an application, license fee
11 and bond in proper form, from a person who is eligible to
12 receive a distributor's license under this Act, shall issue to
13 such applicant a license in form as prescribed by the
14 Department, which license shall permit the applicant to which
15 it is issued to engage in business as a distributor at the
16 place shown in his application. All licenses issued by the
17 Department under this Act shall be valid for not to exceed one
18 year after issuance unless sooner revoked, canceled or
19 suspended as provided in this Act. No license issued under this
20 Act is transferable or assignable. Such license shall be
21 conspicuously displayed in the place of business conducted by
22 the licensee in Illinois under such license. No distributor
23 licensee acquires any vested interest or compensable property
24 right in a license issued under this Act.

25 A licensed distributor shall notify the Department of any
26 change in the information contained on the application form,

1 including any change in ownership and shall do so within 30
2 days after any such change.

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

14 (Source: P.A. 91-901, eff. 1-1-01; 92-322, eff. 1-1-02.)

15 (35 ILCS 130/4d new)

16 Sec. 4d. Transactions only with licensed distributors,
17 out-of-state manufacturers holding a permit, and retailers
18 holding a certificate of registration. A distributor or
19 manufacturer may sell or distribute cigarettes to a person
20 located or doing business within this State only if such person
21 is a licensed distributor or retailer holding a certificate of
22 registration. A retailer may only sell cigarettes obtained from
23 a licensed distributor or an out-of-state manufacturer holding
24 a permit.

1 (35 ILCS 130/4g new)

2 Sec. 4g. Maintenance of and publication of list of
3 licensees and permittees whose licenses or permits have been
4 suspended, cancelled, or revoked. Within 30 days after the
5 effective date of this amendatory Act of the 95th General
6 Assembly, the Department shall create and maintain a website
7 setting forth the identity of all persons whose licenses or
8 permits have been suspended, cancelled, or revoked under this
9 Act within the past 3 years, itemized by type of license,
10 permit, or and shall update the website within 30 days after
11 the date the Department suspends, cancels, or revokes any
12 person's license or permit. The Department shall, at a minimum,
13 include on the website the legal name, the business locations,
14 the unique numerical identifier issued prior to the suspension,
15 cancellation, or revocation of the license or permit, and any
16 name under which such licensee or permittee regularly does
17 business.

18 (35 ILCS 130/20) (from Ch. 120, par. 453.20)

19 Sec. 20. Whenever any peace officer of the State or any
20 duly authorized officer or employee of the Department shall
21 have reason to believe that any violation of this Act has
22 occurred and that the person so violating the Act has in his,
23 her or its possession any original package of cigarettes, not
24 tax stamped or tax imprinted underneath the sealed transparent
25 wrapper of such original package as required by this Act, or

1 any vending device containing such original packages to which
2 stamps have not been affixed, or on which an authorized
3 substitute for stamps has not been imprinted underneath the
4 sealed transparent wrapper of such original packages, as
5 required by this Act, he may file or cause to be filed his
6 complaint in writing, verified by affidavit, with any court
7 within whose jurisdiction the premises to be searched are
8 situated, stating the facts upon which such belief is founded,
9 the premises to be searched, and the property to be seized, and
10 procure a search warrant and execute the same. Upon the
11 execution of such search warrant, the peace officer, or officer
12 or employee of the Department, executing such search warrant
13 shall make due return thereof to the court issuing the same,
14 together with an inventory of the property taken thereunder.
15 The court shall thereupon issue process against the owner of
16 such property if he is known; otherwise, such process shall be
17 issued against the person in whose possession the property so
18 taken is found, if such person is known. In case of inability
19 to serve such process upon the owner or the person in
20 possession of the property at the time of its seizure, as
21 hereinbefore provided, notice of the proceedings before the
22 court shall be given as required by the statutes of the State
23 governing cases of Attachment. Upon the return of the process
24 duly served or upon the posting or publishing of notice made,
25 as hereinabove provided, the court or jury, if a jury shall be
26 demanded, shall proceed to determine whether or not such

1 property so seized was held or possessed in violation of this
2 Act, or whether, if a vending device has been so seized, it
3 contained at the time of its seizure original packages not tax
4 stamped or tax imprinted underneath the sealed transparent
5 wrapper of such original packages as required by this Act. In
6 case of a finding that the original packages seized were not
7 tax stamped or tax imprinted underneath the sealed transparent
8 wrapper of such original packages in accordance with the
9 provisions of this Act, or that any vending device so seized
10 contained at the time of its seizure original packages not tax
11 stamped or tax imprinted underneath the sealed transparent
12 wrapper of such original packages in accordance with the
13 provisions of this Act, judgment shall be entered confiscating
14 and forfeiting the property to the State and ordering its
15 delivery to the Department, and in addition thereto, the court
16 shall have power to tax and assess the costs of the
17 proceedings.

18 When any original packages or any cigarette vending device
19 shall have been declared forfeited to the State by any court,
20 as hereinbefore provided, and when such confiscated and
21 forfeited property shall have been delivered to the Department,
22 as provided in this Act, the said Department shall destroy ~~sell~~
23 such property. The Department may, prior to any destruction of
24 cigarettes, permit the true holder of the trademark rights in
25 the cigarette brand to inspect such contraband cigarettes, in
26 order to assist the Department in any investigation regarding

1 ~~such cigarettes. for the best price obtainable and shall~~
2 ~~forthwith pay over the proceeds of such sale to the State~~
3 ~~Treasurer; provided, however, that if the value of such~~
4 ~~property to be sold at any one time shall be \$500 or more, such~~
5 ~~property shall be sold only to the highest and best bidder on~~
6 ~~such terms and conditions and on open competitive bidding after~~
7 ~~public advertisement, in such manner and for such terms as the~~
8 ~~Department, by rule, may prescribe.~~

9 ~~Upon making such a sale of original packages of cigarettes~~
10 ~~which were not tax stamped or tax imprinted underneath the~~
11 ~~sealed transparent wrapper of such original packages as~~
12 ~~required by this Act, the Department shall affix a distinctive~~
13 ~~stamp to each of the original packages so sold indicating that~~
14 ~~the same are sold pursuant to the provisions of this Section.~~

15 (Source: Laws 1965, p. 3707.)

16 (35 ILCS 130/21) (from Ch. 120, par. 453.21)

17 Sec. 21. Destruction or use of forfeited property.

18 (a) When any original packages of cigarettes or any
19 cigarette vending device shall have been declared forfeited to
20 the State by the Department, as provided in Section 18a of this
21 Act, and when all proceedings for the judicial review of the
22 Department's decision have terminated, the Department shall,
23 to the extent that its decision is sustained on review,
24 ~~destroy,~~ or maintain and use such property in an undercover
25 ~~capacity, or sell such property for the best price obtainable~~

1 ~~and shall forthwith pay over the proceeds of such sale to the~~
2 ~~State Treasurer. If the value of such property to be sold at~~
3 ~~any one time is \$500 or more, however, such property shall be~~
4 ~~sold only to the highest and best bidder on such terms and~~
5 ~~conditions and on open competitive bidding after public~~
6 ~~advertisement, in such manner and for such terms as the~~
7 ~~Department, by rule, may prescribe.~~

8 (b) The Department may, prior to any destruction of
9 cigarettes, permit the true holder of the trademark rights in
10 the cigarette brand to inspect such contraband cigarettes in
11 order to assist the Department in any investigation regarding
12 such cigarettes. ~~If no complaint for review, as provided in~~
13 ~~Section 8 of this Act, has been filed within the time required~~
14 ~~by the Administrative Review Law, and if no stay order has been~~
15 ~~entered thereunder, the Department shall proceed to sell the~~
16 ~~property for the best price obtainable and shall forthwith pay~~
17 ~~over the proceeds of such sale to the State Treasurer. If the~~
18 ~~value of such property to be sold at any one time is \$500 or~~
19 ~~more, however, such property shall be sold only to the highest~~
20 ~~and best bidder on such terms and conditions and on open~~
21 ~~competitive bidding after public advertisement, in such manner~~
22 ~~and for such terms as the Department, by rule, may prescribe.~~

23 ~~(c) Upon making a sale of unstamped original packages of~~
24 ~~cigarettes as provided in this Section, the Department shall~~
25 ~~affix a distinctive stamp to each of the original packages so~~
26 ~~sold indicating that the same are sold under this Section.~~

1 ~~(d) Notwithstanding the foregoing, any cigarettes seized~~
2 ~~under this Act or under the Cigarette Use Tax Act may, at the~~
3 ~~discretion of the Director of Revenue, be distributed to any~~
4 ~~eleemosynary institution within the State of Illinois.~~

5 (Source: P.A. 94-776, eff. 5-19-06.)

6 (35 ILCS 130/9c rep.)

7 (35 ILCS 130/28 rep.)

8 Section 10. The Cigarette Tax Act is amended by repealing
9 Sections 9c and 28.

10 Section 15. The Prevention of Cigarette Sales to Minors Act
11 is amended by changing Sections 5 and 10 and by adding Sections
12 2, 6, 7, 8, 9, 20, 25, and 30 as follows:

13 (720 ILCS 678/2 new)

14 Sec. 2. Definitions. For the purpose of this Act:

15 "Clear and conspicuous statement" means the statement is of
16 sufficient type size to be clearly readable by the recipient of
17 the communication.

18 "Consumer" means an individual who acquires or seeks to
19 acquire cigarettes for personal use.

20 "Delivery sale" means any sale of cigarettes to a consumer
21 if:

22 (a) the consumer submits the order for such sale by
23 means of a telephone or other method of voice transmission,

1 the mails, or the Internet or other online service, or the
2 seller is otherwise not in the physical presence of the
3 buyer when the request for purchase or order is made; or

4 (b) the cigarettes are delivered by use of a common
5 carrier, private delivery service, or the mails, or the
6 seller is not in the physical presence of the buyer when
7 the buyer obtains possession of the cigarettes.

8 "Delivery service" means any person (other than a person
9 that makes a delivery sale) who delivers to the consumer the
10 cigarettes sold in a delivery sale.

11 "Department" means the Department of Revenue.

12 "Government-issued identification" means a State driver's
13 license, State identification card, passport, a military
14 identification or an official naturalization or immigration
15 document, such as an alien registration recipient card
16 (commonly known as a "green card") or an immigrant visa.

17 "Legal minimum age" means the minimum age at which an
18 individual may legally purchase cigarettes within this State,
19 as determined by either State or local government.

20 "Mails" or "mailing" mean the shipment of cigarettes
21 through the United States Postal Service.

22 "Out-of-state sale" means a sale of cigarettes to a
23 consumer located outside of this State where the consumer
24 submits the order for such sale by means of a telephonic or
25 other method of voice transmission, the mails or any other
26 delivery service, facsimile transmission, or the Internet or

1 other online service and where the cigarettes are delivered by
2 use of the mails or other delivery service.

3 "Person" means any individual, corporation, partnership,
4 limited liability company, association, or other organization
5 that engages in any for profit or not-for-profit activities.

6 "Shipping package" means a container in which packs or
7 cartons of cigarettes are shipped in connection with a delivery
8 sale.

9 "Shipping documents" means bills of lading, air bills, or
10 any other documents used to evidence the undertaking by a
11 delivery service to deliver letters, packages, or other
12 containers.

13 "Within this State" means within the exterior limits of the
14 State of Illinois and includes all territory within these
15 limits owned by or ceded to the United States of America.

16 (720 ILCS 678/5)

17 Sec. 5. Unlawful shipment or transportation of cigarettes.

18 (a) It is unlawful for any person engaged in the business
19 of selling cigarettes to ship or cause to be shipped any
20 cigarettes unless the person shipping the cigarettes:

21 (1) is licensed as a distributor under either the
22 Cigarette Tax Act, or the Cigarette Use Tax Act; or
23 delivers the cigarettes to a distributor licensed under
24 either the Cigarette Tax Act or the Cigarette Use Tax Act;
25 or

1 (2) ships them to an export warehouse proprietor
2 pursuant to Chapter 52 of the Internal Revenue Code, or an
3 operator of a customs bonded warehouse pursuant to Section
4 1311 or 1555 of Title 19 of the United States Code.

5 For purposes of this subsection (a), a person is a licensed
6 distributor if the person's name appears on a list of licensed
7 distributors published by the Illinois Department of Revenue.
8 The term cigarette has the same meaning as defined in Section 1
9 of the Cigarette Tax Act and Section 1 of the Cigarette Use Tax
10 Act. Nothing in this Act prohibits a person licensed as a
11 distributor under the Cigarette Tax Act or the Cigarette Use
12 Tax Act from shipping or causing to be shipped any cigarettes
13 to a registered retailer under the Retailers' Occupation Tax
14 Act and the Cigarette Tax Act provided the cigarette tax or
15 cigarette use tax has been paid.

16 (b) A common or contract carrier may transport cigarettes
17 to any individual person in this State only if the carrier
18 reasonably believes such cigarettes have been received from a
19 person described in paragraph (a)(1). Common or contract
20 carriers may make deliveries of cigarettes to licensed
21 distributors described in paragraph (a)(1) of this Section.
22 Nothing in this subsection (b) shall be construed to prohibit a
23 person other than a common or contract carrier from
24 transporting not more than 1,000 cigarettes at any one time to
25 any person in this State.

26 (c) A common or contract carrier may not complete the

1 delivery of any cigarettes to persons other than those
2 described in paragraph (a)(1) of this Section without first
3 obtaining from the purchaser an official written
4 identification from any state or federal agency that displays
5 the person's date of birth or a birth certificate that includes
6 a reliable confirmation that the purchaser is at least 18 years
7 of age; that the cigarettes purchased are not intended for
8 consumption by an individual who is younger than 18 years of
9 age; and a written statement signed by the purchaser that
10 certifies the purchaser's address and that the purchaser is at
11 least 18 years of age. The statement shall also confirm: (1)
12 that the purchaser understands that signing another person's
13 name to the certification is illegal; (2) that the sale of
14 cigarettes to individuals under 18 years of age is illegal; and
15 (3) that the purchase of cigarettes by individuals under 18
16 years of age is illegal under the laws of Illinois.

17 (d) When a person engaged in the business of selling
18 cigarettes ships or causes to be shipped any cigarettes to any
19 person in this State, other than in the cigarette
20 manufacturer's or tobacco products manufacturer's original
21 container or wrapping, the container or wrapping must be
22 plainly and visibly marked with the word "cigarettes".

23 (e) When a peace officer of this State or any duly
24 authorized officer or employee of the Illinois Department of
25 Public Health or Department of Revenue discovers any cigarettes
26 which have been or which are being shipped or transported in

1 violation of this Section, he or she shall seize and take
2 possession of the cigarettes, and the cigarettes shall be
3 subject to a forfeiture action pursuant to the procedures
4 provided under the Cigarette Tax Act or Cigarette Use Tax Act.

5 (Source: P.A. 93-960, eff. 8-20-04.)

6 (720 ILCS 678/6 new)

7 Sec. 6. Prevention of delivery sales to minors.

8 (a) No person shall make a delivery sale of cigarettes to
9 any individual who is under the legal minimum age.

10 (b) Each person accepting a purchase order for a delivery
11 sale shall comply with the provisions of this Act and all other
12 laws of this State generally applicable to sales of cigarettes
13 that occur entirely within this State, including, but not
14 limited to, those laws imposing: (i) excise taxes; (ii) sales
15 taxes; (iii) license and revenue-stamping requirements; and
16 (iv) escrow payment obligations.

17 (720 ILCS 678/7 new)

18 Sec. 7. Age verification and shipping requirements to
19 prevent delivery sales to minors.

20 (a) No person, other than a delivery service, shall mail,
21 ship, or otherwise cause to be delivered a shipping package in
22 connection with a delivery sale unless the person:

23 (1) prior to the first delivery sale to the prospective
24 consumer, obtains from the prospective consumer a written

1 certification which includes a statement signed by the
2 prospective consumer that certifies:

3 (A) the prospective consumer's current address;

4 and

5 (B) that the prospective consumer is at least the
6 legal minimum age;

7 (2) informs, in writing, such prospective consumer
8 that:

9 (A) the signing of another person's name to the
10 certification described in this Section is illegal;

11 (B) sales of cigarettes to individuals under the
12 legal minimum age are illegal;

13 (C) the purchase of cigarettes by individuals
14 under the legal minimum age is illegal; and

15 (D) the name and identity of the prospective
16 consumer may be reported to the state of the consumer's
17 current address under the Act of October 19, 1949 (15
18 U.S.C. § 375, et seq.), commonly known as the Jenkins
19 Act;

20 (3) makes a good faith effort to verify the date of
21 birth of the prospective customer provided pursuant to this
22 Section by:

23 (A) comparing the date of birth against a
24 commercially available database or

25 (B) obtaining a photocopy or other image of a
26 valid, government-issued identification stating the

1 date of birth or age of the prospective consumer;

2 (4) provides to the prospective consumer a notice that
3 meets the requirements of subsection (b);

4 (5) receives payment for the delivery sale from the
5 prospective consumer by a credit or debit card that has
6 been issued in such consumer's name, or by a check or other
7 written instrument in such consumer's name; and

8 (6) ensures that the shipping package is delivered to
9 the same address as is shown on the government-issued
10 identification or contained in the commercially available
11 database.

12 (b) The notice required under this Section shall include:

13 (1) a statement that cigarette sales to consumers below
14 the legal minimum age are illegal;

15 (2) a statement that sales of cigarettes are restricted
16 to those consumers who provide verifiable proof of age in
17 accordance with subsection (a);

18 (3) a statement that cigarette sales are subject to tax
19 under Section 2 of the Cigarette Tax Act (35 ILCS 130/2)
20 and an explanation of how such tax has been, or is to be,
21 paid with respect to such delivery sale.

22 (c) A statement meets the requirement of this Section if:

23 (1) the statement is clear and conspicuous;

24 (2) the statement is contained in a printed box set
25 apart from the other contents of the communication;

26 (3) the statement is printed in bold, capital letters;

1 (4) the statement is printed with a degree of color
2 contrast between the background and the printed statement
3 that is no less than the color contrast between the
4 background and the largest text used in the communication;
5 and

6 (5) for any printed material delivered by electronic
7 means, the statement appears at both the top and the bottom
8 of the electronic mail message or both the top and the
9 bottom of the Internet website homepage.

10 (d) Each person, other than a delivery service, who mails,
11 ships, or otherwise causes to be delivered a shipping package
12 in connection with a delivery sale shall:

13 (1) include as part of the shipping documents a clear
14 and conspicuous statement stating: "Cigarettes: Illinois
15 Law Prohibits Shipping to Individuals Under 18 and Requires
16 the Payment of All Applicable Taxes";

17 (2) use a method of mailing, shipping, or delivery that
18 requires a signature before the shipping package is
19 released to the consumer; and

20 (3) ensure that the shipping package is not delivered
21 to any post office box.

22 (720 ILCS 678/8 new)

23 Sec. 8. Registration and reporting requirements to prevent
24 delivery sales to minors.

25 (a) Each person who makes a delivery sale of cigarettes to

1 a consumer located within this State shall file with the
2 Department for each individual sale:

3 (1) a statement setting forth such person's name, trade
4 name, and the address of such person's principal place of
5 business and any other place of business; and

6 (2) not later than the tenth day of each calendar
7 month, a memorandum or copy of the invoice for each and
8 every such delivery sale made during the previous calendar
9 month, which includes the following information:

10 (A) the name and address of the consumer to whom
11 such delivery sale was made;

12 (B) the brand style or brand styles of the
13 cigarettes that were sold in such delivery sale;

14 (C) the quantity of cigarettes that were sold in
15 such delivery sale; and

16 (D) an indication of whether or not the cigarettes
17 sold in the delivery sale bore a tax stamp evidencing
18 payment of the tax under Section 2 of the Cigarette Tax
19 Act (35 ILCS 130/2).

20 (b) Each person engaged in business within this State who
21 makes an out-of-state sale shall, for each individual sale,
22 submit to the appropriate tax official of the state in which
23 the consumer is located the information required in subsection
24 (a).

25 (c) Any person that satisfies the requirements of 15 U.S.C.
26 Section 376 shall be deemed to satisfy the requirements of

1 subsections (a) and (b).

2 (d) The Department is authorized to disclose to the
3 Attorney General any information received under this title and
4 requested by the Attorney General. The Department and the
5 Attorney General shall share with each other the information
6 received under this title and may share the information with
7 other federal, State, or local agencies for purposes of
8 enforcement of this title or the laws of the Federal government
9 or of other States.

10 (e) This Section shall not be construed to impose liability
11 upon any delivery service, or officers or employees thereof,
12 when acting within the scope of business of the delivery
13 service.

14 (720 ILCS 678/9 new)

15 Sec. 9. Statements for delivery sales.

16 (a) Each person who makes a delivery sale shall collect and
17 remit to the Department all excise taxes imposed by this State
18 with respect to such delivery sale and maintain evidence of
19 such payment unless the person is located outside the State and
20 includes a statement on the outside of the shipping package
21 stating: "Illinois law requires the payment of state taxes on
22 this shipment of cigarettes. You are legally responsible for
23 all applicable unpaid state taxes on these cigarettes."

24 (b) A statement meets the requirements of subsection (a) if
25 the statement is:

- 1 (1) clear and conspicuous;
2 (2) contained in a printed box set apart from the
3 shipping label and other markings contained on the shipping
4 package;
5 (3) printed in bold, capital letters;
6 (4) printed with a degree of color contrast between the
7 background and the printed statement that is no less than
8 the color contrast between the background and the largest
9 text used on the shipping label; and
10 (5) located on the same side of the shipping package as
11 the shipping label.

12 (720 ILCS 678/10)

13 Sec. 10. Violation.

14 (a) A person who violates subsection (a), (b), or (c) of
15 Section 5 or Section, 6, 7, 8, or 9 is guilty of a Class A
16 misdemeanor. A second or subsequent violation of subsection
17 (a), (b), or (c) of Section 5 or Section, 6, 7, 8, or 9 is a
18 Class 4 felony.

19 (b) The Department of Revenue shall impose a civil penalty
20 not to exceed \$5,000 on any person who violates subsection (a),
21 (b), or (c) of Section 5 or Sections 6, 7, 8, or 9. The
22 Department of Revenue shall impose a civil penalty not to
23 exceed \$5,000 on any person engaged in the business of selling
24 cigarettes who ships or causes to be shipped any such
25 cigarettes to any person in this State in violation of

1 subsection (d) of Section 5.

2 (c) All cigarettes sold or attempted to be sold in a
3 delivery sale that does not meet the requirements of this Act
4 shall be forfeited to the State. All cigarettes forfeited to
5 this State under this Act shall be destroyed. The Department
6 may, prior to any destruction of cigarettes, permit the true
7 holder of the trademark rights in the cigarette brand to
8 inspect such contraband cigarettes, in order to assist the
9 Department in any investigation regarding such cigarettes.

10 (d) ~~(e)~~ Any person aggrieved by any decision of the
11 Department of Revenue may, within 60 days after notice of that
12 decision, protest in writing and request a hearing. The
13 Department of Revenue shall give notice to the person of the
14 time and place for the hearing and shall hold a hearing before
15 it issues a final administrative decision. Absent a written
16 protest within 60 days, the Department's decision shall become
17 final without any further determination made or notice given.

18 (Source: P.A. 93-960, eff. 8-20-04.)

19 (720 ILCS 678/20 new)

20 Sec. 20. Tip line.

21 (a) Not later than 120 days after the effective date of
22 this amendatory Act of the 95th General Assembly, the
23 Department shall establish, publicize, and maintain a
24 toll-free telephone number to receive information related to
25 violations of this Act.

1 (b) The Attorney General may pay a reward of up to \$5,000
2 to any person who furnishes information leading to the
3 Department's collection of excise taxes imposed upon delivery
4 sales which otherwise would not have been collected but for the
5 information provided by the person.

6 (720 ILCS 678/25 new)

7 Sec. 25. Construction. The requirements imposed by this Act
8 shall not apply where such application would be contrary to the
9 Constitution and laws of the United States.

10 (720 ILCS 678/30 new)

11 Sec. 30. Severability. If any provision of this Act is for
12 any reason held to be unconstitutional or invalid, such holding
13 shall not affect the constitutionality or validity of the
14 remaining provisions of this Act, and to this end the
15 provisions of this Act are expressly declared to be severable.

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.".