



Sen. Toi W. Hutchinson

**Filed: 4/15/2013**

09800SB0338sam001

LRB098 04613 HLH 44509 a

1 AMENDMENT TO SENATE BILL 338

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 338 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Cigarette Tax Act is amended by changing  
5 Sections 1, 2, and 29 as follows:

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

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

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

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

1 or any other substance or material except tobacco.

2 "Cigarette", beginning on and after July 1, 2012, and  
3 through June 30, 2013, means any roll for smoking made wholly  
4 or in part of tobacco irrespective of size or shape and whether  
5 or not such tobacco is flavored, adulterated, or mixed with any  
6 other ingredient, and the wrapper or cover of which is made of  
7 paper.

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

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

14 (b) the product is available for sale in cartons of ten  
15 packs;

16 (c) the product is sold in soft packs, hard packs,  
17 flip-top boxes, clam shells, or other cigarette-type  
18 boxes;

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

21 (e) the product has a cellulose acetate or other  
22 integrated filter;

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

25 (g) other evidence that the product fits within the  
26 definition of cigarette.

1 "Contraband cigarettes" means:

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

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

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

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

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

16 (f) cigarettes that have false manufacturing labels;

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

19 (h) cigarettes that are improperly tax stamped,  
20 including cigarettes that bear a tax stamp of another state  
21 or taxing jurisdiction; or

22 (i) cigarettes made or fabricated by a person holding a  
23 cigarette machine operator license under Section 1-20 of  
24 the Cigarette Machine Operators' Occupation Tax Act in the  
25 possession of manufacturers, distributors, secondary  
26 distributors, manufacturer representatives or other

1           retailers for the purpose of resale, regardless of whether  
2           the tax has been paid on such cigarettes.

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

5           "Person" means any natural individual, firm, partnership,  
6           association, joint stock company, joint adventure, public or  
7           private corporation, however formed, limited liability  
8           company, or a receiver, executor, administrator, trustee,  
9           guardian or other representative appointed by order of any  
10          court.

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

1 "Department" means the Department of Revenue.

2 "Sale" means any transfer, exchange or barter in any manner  
3 or by any means whatsoever for a consideration, and includes  
4 and means all sales made by any person.

5 "Original Package" means the individual packet, box or  
6 other container whatsoever used to contain and to convey  
7 cigarettes to the consumer.

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

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

18 (2) Any person who makes, manufactures or fabricates  
19 cigarettes in this State for sale in this State, except a  
20 person who makes, manufactures or fabricates cigarettes as  
21 a part of a correctional industries program for sale to  
22 residents incarcerated in penal institutions or resident  
23 patients of a State-operated mental health facility.

24 (3) Any person who makes, manufactures or fabricates  
25 cigarettes outside this State, which cigarettes are placed  
26 in original packages contained in sealed transparent

1           wrappers, for delivery or shipment into this State, and who  
2           elects to qualify and is accepted by the Department as a  
3           distributor under Section 4b of this Act.

4           "Place of business" shall mean and include any place where  
5           cigarettes are sold or where cigarettes are manufactured,  
6           stored or kept for the purpose of sale or consumption,  
7           including any vessel, vehicle, airplane, train or vending  
8           machine.

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

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

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

25                 (1) who transfers to residents incarcerated in penal  
26                 institutions or resident patients of a State-operated

1           mental health facility ownership of cigarettes made,  
2           manufactured, or fabricated as part of a correctional  
3           industries program; or

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

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

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

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

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; or

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

5 (Source: P.A. 96-782, eff. 1-1-10; 96-1027, eff. 7-12-10;  
6 97-587, eff. 8-26-11; 97-688, eff. 6-14-12.)

7 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

8 Sec. 2. Tax imposed; rate; collection, payment, and  
9 distribution; discount.

10 (a) A tax is imposed upon any person engaged in business as  
11 a retailer of cigarettes in this State at the rate of 5 1/2  
12 mills per cigarette sold, or otherwise disposed of in the  
13 course of such business in this State. In addition to any other  
14 tax imposed by this Act, a tax is imposed upon any person  
15 engaged in business as a retailer of cigarettes in this State  
16 at a rate of 1/2 mill per cigarette sold or otherwise disposed  
17 of in the course of such business in this State on and after  
18 January 1, 1947, and, through June 30, 2013, shall be paid into  
19 the Metropolitan Fair and Exposition Authority Reconstruction  
20 Fund or as otherwise provided in Section 29. On and after  
21 December 1, 1985, in addition to any other tax imposed by this  
22 Act, a tax is imposed upon any person engaged in business as a  
23 retailer of cigarettes in this State at a rate of 4 mills per  
24 cigarette sold or otherwise disposed of in the course of such  
25 business in this State. Of the additional tax imposed by this



1 amendatory Act of 1985, \$9,000,000 of the moneys received by  
2 the Department of Revenue pursuant to this Act shall be paid  
3 each month, through June 30, 2013, into the Common School Fund.  
4 On and after the effective date of this amendatory Act of 1989,  
5 in addition to any other tax imposed by this Act, a tax is  
6 imposed upon any person engaged in business as a retailer of  
7 cigarettes at the rate of 5 mills per cigarette sold or  
8 otherwise disposed of in the course of such business in this  
9 State. On and after the effective date of this amendatory Act  
10 of 1993, in addition to any other tax imposed by this Act, a  
11 tax is imposed upon any person engaged in business as a  
12 retailer of cigarettes at the rate of 7 mills per cigarette  
13 sold or otherwise disposed of in the course of such business in  
14 this State. On and after December 15, 1997, in addition to any  
15 other tax imposed by this Act, a tax is imposed upon any person  
16 engaged in business as a retailer of cigarettes at the rate of  
17 7 mills per cigarette sold or otherwise disposed of in the  
18 course of such business of this State. All of the moneys  
19 received by the Department of Revenue pursuant to this Act and  
20 the Cigarette Use Tax Act from the additional taxes imposed by  
21 this amendatory Act of 1997, shall be paid each month, through  
22 June 30, 2013, into the Common School Fund. On and after July  
23 1, 2002, in addition to any other tax imposed by this Act, a  
24 tax is imposed upon any person engaged in business as a  
25 retailer of cigarettes at the rate of 20.0 mills per cigarette  
26 sold or otherwise disposed of in the course of such business in

1 this State. Beginning on June 24, 2012, in addition to any  
2 other tax imposed by this Act, a tax is imposed upon any person  
3 engaged in business as a retailer of cigarettes at the rate of  
4 50 mills per cigarette sold or otherwise disposed of in the  
5 course of such business in this State. All moneys received by  
6 the Department of Revenue under this Act and the Cigarette Use  
7 Tax Act from the additional taxes imposed by this amendatory  
8 Act of the 97th General Assembly shall be paid each month, through June 30, 2013,  
9 into the Healthcare Provider Relief  
10 Fund. The payment of such taxes shall be evidenced by a stamp  
11 affixed to each original package of cigarettes, or an  
12 authorized substitute for such stamp imprinted on each original  
13 package of such cigarettes underneath the sealed transparent  
14 outside wrapper of such original package, as hereinafter  
15 provided. However, such taxes are not imposed upon any activity  
16 in such business in interstate commerce or otherwise, which  
17 activity may not under the Constitution and statutes of the  
18 United States be made the subject of taxation by this State.

19 Beginning on the effective date of this amendatory Act of  
20 the 92nd General Assembly and through June 30, 2006, all of the  
21 moneys received by the Department of Revenue pursuant to this  
22 Act and the Cigarette Use Tax Act, other than the moneys that  
23 are dedicated to the Common School Fund, shall be distributed  
24 each month as follows: first, there shall be paid into the  
25 General Revenue Fund an amount which, when added to the amount  
26 paid into the Common School Fund for that month, equals

1 \$33,300,000, except that in the month of August of 2004, this  
2 amount shall equal \$83,300,000; then, from the moneys  
3 remaining, if any amounts required to be paid into the General  
4 Revenue Fund in previous months remain unpaid, those amounts  
5 shall be paid into the General Revenue Fund; then, beginning on  
6 April 1, 2003, from the moneys remaining, \$5,000,000 per month  
7 shall be paid into the School Infrastructure Fund; then, if any  
8 amounts required to be paid into the School Infrastructure Fund  
9 in previous months remain unpaid, those amounts shall be paid  
10 into the School Infrastructure Fund; then the moneys remaining,  
11 if any, shall be paid into the Long-Term Care Provider Fund. To  
12 the extent that more than \$25,000,000 has been paid into the  
13 General Revenue Fund and Common School Fund per month for the  
14 period of July 1, 1993 through the effective date of this  
15 amendatory Act of 1994 from combined receipts of the Cigarette  
16 Tax Act and the Cigarette Use Tax Act, notwithstanding the  
17 distribution provided in this Section, the Department of  
18 Revenue is hereby directed to adjust the distribution provided  
19 in this Section to increase the next monthly payments to the  
20 Long Term Care Provider Fund by the amount paid to the General  
21 Revenue Fund and Common School Fund in excess of \$25,000,000  
22 per month and to decrease the next monthly payments to the  
23 General Revenue Fund and Common School Fund by that same excess  
24 amount.

25 Beginning on July 1, 2006, and through June 30, 2013, all  
26 of the moneys received by the Department of Revenue pursuant to

1 this Act and the Cigarette Use Tax Act, other than the moneys  
2 that are dedicated to the Common School Fund and, beginning on  
3 the effective date of this amendatory Act of the 97th General  
4 Assembly, other than the moneys from the additional taxes  
5 imposed by this amendatory Act of the 97th General Assembly  
6 that must be paid each month into the Healthcare Provider  
7 Relief Fund, shall be distributed each month as follows: first,  
8 there shall be paid into the General Revenue Fund an amount  
9 that, when added to the amount paid into the Common School Fund  
10 for that month, equals \$29,200,000; then, from the moneys  
11 remaining, if any amounts required to be paid into the General  
12 Revenue Fund in previous months remain unpaid, those amounts  
13 shall be paid into the General Revenue Fund; then from the  
14 moneys remaining, \$5,000,000 per month shall be paid into the  
15 School Infrastructure Fund; then, if any amounts required to be  
16 paid into the School Infrastructure Fund in previous months  
17 remain unpaid, those amounts shall be paid into the School  
18 Infrastructure Fund; then the moneys remaining, if any, shall  
19 be paid into the Long-Term Care Provider Fund.

20 Beginning on July 1, 2013, all of the moneys received by  
21 the Department of Revenue pursuant to this Act or the Cigarette  
22 Use Tax Act, and from the sale of stamps affixed to little  
23 cigars under the Tobacco Products Tax Act of 1995, shall be  
24 distributed each month as follows: first, \$9,500,000 per month  
25 shall be paid into the Common School Fund; then, from the  
26 moneys remaining, if any amounts required to be paid into the

1 Common School Fund in previous months remain unpaid, those  
2 amounts shall be paid into the Common School Fund; then, from  
3 the moneys remaining, \$20,050,000 per month shall be paid into  
4 the General Revenue Fund; then, from the moneys remaining, if  
5 any amounts required to be paid into the General Revenue Fund  
6 in previous months remain unpaid, those amounts shall be paid  
7 into the General Revenue Fund; then, from the moneys remaining,  
8 \$27,500,000 per month shall be paid into the Healthcare  
9 Provider Relief Fund; then, if any amounts required to be paid  
10 into the Healthcare Provider Relief Fund in previous months  
11 remain unpaid, those amounts shall be paid into the Healthcare  
12 Provider Relief Fund; then, from the moneys remaining,  
13 \$9,000,000 per month shall be paid into the Long Term Care  
14 Provider Fund; then, if any amounts required to be paid into  
15 the Long Term Care Provider Fund in previous months remain  
16 unpaid, those amounts shall be paid into the Long Term Care  
17 Provider Fund; then the moneys remaining, if any, shall be paid  
18 into the School Infrastructure Fund.

19       When any tax imposed herein terminates or has terminated,  
20 distributors who have bought stamps while such tax was in  
21 effect and who therefore paid such tax, but who can show, to  
22 the Department's satisfaction, that they sold the cigarettes to  
23 which they affixed such stamps after such tax had terminated  
24 and did not recover the tax or its equivalent from purchasers,  
25 shall be allowed by the Department to take credit for such  
26 absorbed tax against subsequent tax stamp purchases from the

1 Department by such distributor.

2 The impact of the tax levied by this Act is imposed upon  
3 the retailer and shall be prepaid or pre-collected by the  
4 distributor for the purpose of convenience and facility only,  
5 and the amount of the tax shall be added to the price of the  
6 cigarettes sold by such distributor. Collection of the tax  
7 shall be evidenced by a stamp or stamps affixed to each  
8 original package of cigarettes, as hereinafter provided.

9 Each distributor shall collect the tax from the retailer at  
10 or before the time of the sale, shall affix the stamps as  
11 hereinafter required, and shall remit the tax collected from  
12 retailers to the Department, as hereinafter provided. Any  
13 distributor who fails to properly collect and pay the tax  
14 imposed by this Act shall be liable for the tax. Any  
15 distributor having cigarettes to which stamps have been affixed  
16 in his possession for sale on the effective date of this  
17 amendatory Act of 1989 shall not be required to pay the  
18 additional tax imposed by this amendatory Act of 1989 on such  
19 stamped cigarettes. Any distributor having cigarettes to which  
20 stamps have been affixed in his or her possession for sale at  
21 12:01 a.m. on the effective date of this amendatory Act of  
22 1993, is required to pay the additional tax imposed by this  
23 amendatory Act of 1993 on such stamped cigarettes. This  
24 payment, less the discount provided in subsection (b), shall be  
25 due when the distributor first makes a purchase of cigarette  
26 tax stamps after the effective date of this amendatory Act of

1 1993, or on the first due date of a return under this Act after  
2 the effective date of this amendatory Act of 1993, whichever  
3 occurs first. Any distributor having cigarettes to which stamps  
4 have been affixed in his possession for sale on December 15,  
5 1997 shall not be required to pay the additional tax imposed by  
6 this amendatory Act of 1997 on such stamped cigarettes.

7 Any distributor having cigarettes to which stamps have been  
8 affixed in his or her possession for sale on July 1, 2002 shall  
9 not be required to pay the additional tax imposed by this  
10 amendatory Act of the 92nd General Assembly on those stamped  
11 cigarettes.

12 Any retailer having cigarettes in his or her possession on  
13 June 24, 2012 to which tax stamps have been affixed is not  
14 required to pay the additional tax that begins on June 24, 2012  
15 imposed by this amendatory Act of the 97th General Assembly on  
16 those stamped cigarettes. Any distributor having cigarettes in  
17 his or her possession on June 24, 2012 to which tax stamps have  
18 been affixed, and any distributor having stamps in his or her  
19 possession on June 24, 2012 that have not been affixed to  
20 packages of cigarettes before June 24, 2012, is required to pay  
21 the additional tax that begins on June 24, 2012 imposed by this  
22 amendatory Act of the 97th General Assembly to the extent the  
23 calendar year 2012 average monthly volume of cigarette stamps  
24 in the distributor's possession exceeds the average monthly  
25 volume of cigarette stamps purchased by the distributor in  
26 calendar year 2011. This payment, less the discount provided in

1 subsection (b), is due when the distributor first makes a  
2 purchase of cigarette stamps on or after June 24, 2012 or on  
3 the first due date of a return under this Act occurring on or  
4 after June 24, 2012, whichever occurs first. Those distributors  
5 may elect to pay the additional tax on packages of cigarettes  
6 to which stamps have been affixed and on any stamps in the  
7 distributor's possession that have not been affixed to packages  
8 of cigarettes over a period not to exceed 12 months from the  
9 due date of the additional tax by notifying the Department in  
10 writing. The first payment for distributors making such  
11 election is due when the distributor first makes a purchase of  
12 cigarette tax stamps on or after June 24, 2012 or on the first  
13 due date of a return under this Act occurring on or after June  
14 24, 2012, whichever occurs first. Distributors making such an  
15 election are not entitled to take the discount provided in  
16 subsection (b) on such payments.

17 Distributors making sales of cigarettes to secondary  
18 distributors shall add the amount of the tax to the price of  
19 the cigarettes sold by the distributors. Secondary  
20 distributors making sales of cigarettes to retailers shall  
21 include the amount of the tax in the price of the cigarettes  
22 sold to retailers. The amount of tax shall not be less than the  
23 amount of taxes imposed by the State and all local  
24 jurisdictions. The amount of local taxes shall be calculated  
25 based on the location of the retailer's place of business shown  
26 on the retailer's certificate of registration or



1 sub-registration issued to the retailer pursuant to Section 2a  
2 of the Retailers' Occupation Tax Act. The original packages of  
3 cigarettes sold to the retailer shall bear all the required  
4 stamps, or other indicia, for the taxes included in the price  
5 of cigarettes.

6 The amount of the Cigarette Tax imposed by this Act shall  
7 be separately stated, apart from the price of the goods, by  
8 distributors, manufacturer representatives, secondary  
9 distributors, and retailers, in all bills and sales invoices.

10 (b) The distributor shall be required to collect the taxes  
11 provided under paragraph (a) hereof, and, to cover the costs of  
12 such collection, shall be allowed a discount during any year  
13 commencing July 1st and ending the following June 30th in  
14 accordance with the schedule set out hereinbelow, which  
15 discount shall be allowed at the time of purchase of the stamps  
16 when purchase is required by this Act, or at the time when the  
17 tax is remitted to the Department without the purchase of  
18 stamps from the Department when that method of paying the tax  
19 is required or authorized by this Act. Prior to December 1,  
20 1985, a discount equal to  $1\frac{2}{3}\%$  of the amount of the tax up to  
21 and including the first \$700,000 paid hereunder by such  
22 distributor to the Department during any such year;  $1\frac{1}{3}\%$  of  
23 the next \$700,000 of tax or any part thereof, paid hereunder by  
24 such distributor to the Department during any such year; 1% of  
25 the next \$700,000 of tax, or any part thereof, paid hereunder  
26 by such distributor to the Department during any such year, and

1 2/3 of 1% of the amount of any additional tax paid hereunder by  
2 such distributor to the Department during any such year shall  
3 apply. On and after December 1, 1985, a discount equal to 1.75%  
4 of the amount of the tax payable under this Act up to and  
5 including the first \$3,000,000 paid hereunder by such  
6 distributor to the Department during any such year and 1.5% of  
7 the amount of any additional tax paid hereunder by such  
8 distributor to the Department during any such year shall apply.

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

13 (c) The taxes herein imposed are in addition to all other  
14 occupation or privilege taxes imposed by the State of Illinois,  
15 or by any political subdivision thereof, or by any municipal  
16 corporation.

17 (Source: P.A. 96-1027, eff. 7-12-10; 97-587, eff. 8-26-11;  
18 97-688, eff. 6-14-12.)

19 (35 ILCS 130/29) (from Ch. 120, par. 453.29)

20 Sec. 29. All moneys received by the Department from the  
21 one-half mill tax imposed by the Sixty-fourth General Assembly  
22 and all interest and penalties, received in connection  
23 therewith under the provisions of this Act shall be paid into  
24 the Metropolitan Fair and Exposition Authority Reconstruction  
25 Fund. All other moneys received by the Department under this

1 Act shall be paid into the General Revenue Fund in the State  
2 treasury. After there has been paid into the Metropolitan Fair  
3 and Exposition Authority Reconstruction Fund sufficient money  
4 to pay in full both principal and interest, all of the  
5 outstanding bonds issued pursuant to the "Fair and Exposition  
6 Authority Reconstruction Act", the State Treasurer and  
7 Comptroller shall transfer to the General Revenue Fund the  
8 balance of moneys remaining in the Metropolitan Fair and  
9 Exposition Authority Reconstruction Fund except for \$2,500,000  
10 which shall remain in the Metropolitan Fair and Exposition  
11 Authority Reconstruction Fund and which may be appropriated by  
12 the General Assembly for the corporate purposes of the  
13 Metropolitan Pier and Exposition Authority. All monies  
14 received by the Department in fiscal year 1978 and thereafter  
15 from the one-half mill tax imposed by the Sixty-fourth General  
16 Assembly, and all interest and penalties received in connection  
17 therewith under the provisions of this Act, shall be paid into  
18 the General Revenue Fund, except that the Department shall pay  
19 the first \$4,800,000 received in fiscal years 1979 through 2001  
20 from that one-half mill tax into the Metropolitan Fair and  
21 Exposition Authority Reconstruction Fund which monies may be  
22 appropriated by the General Assembly for the corporate purposes  
23 of the Metropolitan Pier and Exposition Authority.

24 In fiscal year 2002 and fiscal year 2003, the first  
25 \$4,800,000 from the one-half mill tax shall be paid into the  
26 Statewide Economic Development Fund.

1 All moneys received by the Department in fiscal year 2006  
2 and thereafter through June 30, 2013, from the one-half mill  
3 tax imposed by the 64th General Assembly and all interest and  
4 penalties received in connection with that tax under the  
5 provisions of this Act shall be paid into the General Revenue  
6 Fund.

7 Beginning July 1, 2013, all moneys received from the  
8 one-half mill tax imposed by the 64th General Assembly shall be  
9 paid under the provisions of subsection (a) of Section 2 of  
10 this Act.

11 (Source: P.A. 93-22, eff. 6-20-03; 94-91, eff. 7-1-05.)

12 Section 10. The Cigarette Use Tax Act is amended by  
13 changing Section 1 as follows:

14 (35 ILCS 135/1) (from Ch. 120, par. 453.31)

15 Sec. 1. For the purpose of this Act, unless otherwise  
16 required by the context:

17 "Use" means the exercise by any person of any right or  
18 power over cigarettes incident to the ownership or possession  
19 thereof, other than the making of a sale thereof in the course  
20 of engaging in a business of selling cigarettes and shall  
21 include the keeping or retention of cigarettes for use, except  
22 that "use" does not include the use of cigarettes by a  
23 not-for-profit research institution conducting tests  
24 concerning the health effects of tobacco products, provided the

1 cigarettes are not offered for resale.

2 "Brand Style" means a variety of cigarettes distinguished  
3 by the tobacco used, tar and nicotine content, flavoring used,  
4 size of the cigarette, filtration on the cigarette or  
5 packaging.

6 Until July 1, 2012, and beginning July 1, 2013, "cigarette"  
7 means any roll for smoking made wholly or in part of tobacco  
8 irrespective of size or shape and whether or not such tobacco  
9 is flavored, adulterated or mixed with any other ingredient,  
10 and the wrapper or cover of which is made of paper or any other  
11 substance or material except tobacco.

12 "Cigarette", beginning on and after July 1, 2012, and  
13 through June 30, 2013, means any roll for smoking made wholly  
14 or in part of tobacco irrespective of size or shape and whether  
15 or not such tobacco is flavored, adulterated or mixed with any  
16 other ingredient, and the wrapper or cover of which is made of  
17 paper.

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

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

24 (b) the product is available for sale in cartons of ten  
25 packs;

26 (c) the product is sold in soft packs, hard packs,

1 flip-top boxes, clam shells, or other cigarette-type  
2 boxes;

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

5 (e) the product has a cellulose acetate or other  
6 integrated filter;

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

9 (g) other evidence that the product fits within the  
10 definition of cigarette.

11 "Contraband cigarettes" means:

12 (a) cigarettes that do not bear a required tax stamp  
13 under this Act;

14 (b) cigarettes for which any required federal taxes  
15 have not been paid;

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

17 (d) cigarettes that are manufactured, fabricated,  
18 assembled, processed, packaged, or labeled by any person  
19 other than (i) the owner of the trademark rights in the  
20 cigarette brand or (ii) a person that is directly or  
21 indirectly authorized by such owner;

22 (e) cigarettes imported into the United States, or  
23 otherwise distributed, in violation of the federal  
24 Imported Cigarette Compliance Act of 2000 (Title IV of  
25 Public Law 106-476);

26 (f) cigarettes that have false manufacturing labels;

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

3 (h) cigarettes that are improperly tax stamped,  
4 including cigarettes that bear a tax stamp of another state  
5 or taxing jurisdiction; or

6 (i) cigarettes made or fabricated by a person holding a  
7 cigarette machine operator license under Section 1-20 of  
8 the Cigarette Machine Operators' Occupation Tax Act in the  
9 possession of manufacturers, distributors, secondary  
10 distributors, manufacturer representatives or other  
11 retailers for the purpose of resale, regardless of whether  
12 the tax has been paid on such cigarettes.

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

19 "Department" means the Department of Revenue.

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

23 "Original Package" means the individual packet, box or  
24 other container whatsoever used to contain and to convey  
25 cigarettes to the consumer.

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

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

9           b. Any person who makes, manufactures or fabricates  
10          cigarettes in this State for sale, except a person who  
11          makes, manufactures or fabricates cigarettes for sale to  
12          residents incarcerated in penal institutions or resident  
13          patients or a State-operated mental health facility.

14          c. Any person who makes, manufactures or fabricates  
15          cigarettes outside this State, which cigarettes are placed  
16          in original packages contained in sealed transparent  
17          wrappers, for delivery or shipment into this State, and who  
18          elects to qualify and is accepted by the Department as a  
19          distributor under Section 7 of this Act.

20          "Distributor" does not include any person who transfers  
21          cigarettes to a not-for-profit research institution that  
22          conducts tests concerning the health effects of tobacco  
23          products and who does not offer the cigarettes for resale.

24          "Distributor maintaining a place of business in this  
25          State", or any like term, means any distributor having or  
26          maintaining within this State, directly or by a subsidiary, an



1 office, distribution house, sales house, warehouse or other  
2 place of business, or any agent operating within this State  
3 under the authority of the distributor or its subsidiary,  
4 irrespective of whether such place of business or agent is  
5 located here permanently or temporarily, or whether such  
6 distributor or subsidiary is licensed to transact business  
7 within this State.

8 "Business" means any trade, occupation, activity or  
9 enterprise engaged in or conducted in this State for the  
10 purpose of selling cigarettes.

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

1 "Secondary distributor" means any person engaged in the  
2 business of selling cigarettes who purchases stamped original  
3 packages of cigarettes from a licensed distributor under this  
4 Act or the Cigarette Tax Act, sells 75% or more of those  
5 cigarettes to retailers for resale, and maintains an  
6 established business where a substantial stock of cigarettes is  
7 available to retailers for resale.

8 "Secondary distributor maintaining a place of business in  
9 this State", or any like term, means any secondary distributor  
10 having or maintaining within this State, directly or by a  
11 subsidiary, an office, distribution house, sales house,  
12 warehouse, or other place of business, or any agent operating  
13 within this State under the authority of the secondary  
14 distributor or its subsidiary, irrespective of whether such  
15 place of business or agent is located here permanently or  
16 temporarily, or whether such secondary distributor or  
17 subsidiary is licensed to transact business within this State.

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

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

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

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

25 (Source: P.A. 96-782, eff. 1-1-10; 96-1027, eff. 7-12-10;  
26 97-688, eff. 6-14-12.)

1           Section 15. The Tobacco Products Tax Act of 1995 is amended  
2 by changing Sections 10-5, 10-10, 10-15, 10-30, and 10-45 and  
3 by adding Sections 10-26, 10-27, 10-28, 10-29, and 10-36 as  
4 follows:

5           (35 ILCS 143/10-5)

6           Sec. 10-5. Definitions. For purposes of this Act:

7           "Business" means any trade, occupation, activity, or  
8 enterprise engaged in, at any location whatsoever, for the  
9 purpose of selling tobacco products.

10          "Cigarette" has the meaning ascribed to the term in Section  
11 1 of the Cigarette Tax Act.

12          "Contraband little cigar" means:

13           (1) packages of little cigars containing 20 or 25  
14 little cigars that do not bear a required tax stamp under  
15 this Act;

16           (2) packages of little cigars containing 20 or 25  
17 little cigars that bear a fraudulent, imitation, or  
18 counterfeit tax stamp;

19           (3) packages of little cigars containing 20 or 25  
20 little cigars that are improperly tax stamped, including  
21 packages of little cigars that bear only a tax stamp of  
22 another state or taxing jurisdiction; or

23           (4) packages of little cigars containing other than 20  
24 or 25 little cigars in the possession of a distributor,

1       retailer or wholesaler, unless the distributor, retailer,  
2       or wholesaler possesses, or produces within the time frame  
3       provided in Section 10-27 or 10-28 of this Act, an invoice  
4       from a stamping distributor, distributor, or wholesaler  
5       showing that the tax on the packages has been or will be  
6       paid.

7       "Correctional Industries program" means a program run by a  
8       State penal institution in which residents of the penal  
9       institution produce tobacco products for sale to persons  
10      incarcerated in penal institutions or resident patients of a  
11      State operated mental health facility.

12      "Department" means the Illinois Department of Revenue.

13      "Distributor" means any of the following:

14           (1) Any manufacturer or wholesaler in this State  
15      engaged in the business of selling tobacco products who  
16      sells, exchanges, or distributes tobacco products to  
17      retailers or consumers in this State.

18           (2) Any manufacturer or wholesaler engaged in the  
19      business of selling tobacco products from without this  
20      State who sells, exchanges, distributes, ships, or  
21      transports tobacco products to retailers or consumers  
22      located in this State, so long as that manufacturer or  
23      wholesaler has or maintains within this State, directly or  
24      by subsidiary, an office, sales house, or other place of  
25      business, or any agent or other representative operating  
26      within this State under the authority of the person or

1 subsidiary, irrespective of whether the place of business  
2 or agent or other representative is located here  
3 permanently or temporarily.

4 (3) Any retailer who receives tobacco products on which  
5 the tax has not been or will not be paid by another  
6 distributor.

7 "Distributor" does not include any person, wherever  
8 resident or located, who makes, manufactures, or fabricates  
9 tobacco products as part of a Correctional Industries program  
10 for sale to residents incarcerated in penal institutions or  
11 resident patients of a State operated mental health facility.

12 "Little cigar" means and includes any roll, made wholly or  
13 in part of tobacco, where such roll has an integrated cellulose  
14 acetate filter and weighs less than 4 pounds per thousand and  
15 the wrapper or cover of which is made in whole or in part of  
16 tobacco.

17 "Manufacturer" means any person, wherever resident or  
18 located, who manufactures and sells tobacco products, except a  
19 person who makes, manufactures, or fabricates tobacco products  
20 as a part of a Correctional Industries program for sale to  
21 persons incarcerated in penal institutions or resident  
22 patients of a State operated mental health facility.

23 Beginning on January 1, 2013, "moist snuff" means any  
24 finely cut, ground, or powdered tobacco that is not intended to  
25 be smoked, but shall not include any finely cut, ground, or  
26 powdered tobacco that is intended to be placed in the nasal

1 cavity.

2 "Person" means any natural individual, firm, partnership,  
3 association, joint stock company, joint venture, limited  
4 liability company, or public or private corporation, however  
5 formed, or a receiver, executor, administrator, trustee,  
6 conservator, or other representative appointed by order of any  
7 court.

8 "Place of business" means and includes any place where  
9 tobacco products are sold or where tobacco products are  
10 manufactured, stored, or kept for the purpose of sale or  
11 consumption, including any vessel, vehicle, airplane, train,  
12 or vending machine.

13 "Retailer" means any person in this State engaged in the  
14 business of selling tobacco products to consumers in this  
15 State, regardless of quantity or number of sales.

16 "Sale" means any transfer, exchange, or barter in any  
17 manner or by any means whatsoever for a consideration and  
18 includes all sales made by persons.

19 "Stamp" or "stamps" mean the indicia required to be affixed  
20 on a package of little cigars that evidence payment of the tax  
21 on packages of little cigars containing 20 or 25 little cigars  
22 under Section 10-10 of this Act. These stamps shall be the same  
23 stamps used for cigarettes under the Cigarette Tax Act.

24 "Stamping distributor" means a distributor licensed under  
25 this Act and also licensed as a distributor under the Cigarette  
26 Tax Act or Cigarette Use Tax Act.

1 "Tobacco products" means any cigars, including little  
2 cigars; cheroots; stogies; periques; granulated, plug cut,  
3 crimp cut, ready rubbed, and other smoking tobacco; snuff  
4 (including moist snuff) or snuff flour; cavendish; plug and  
5 twist tobacco; fine-cut and other chewing tobaccos; shorts;  
6 refuse scraps, clippings, cuttings, and sweeping of tobacco;  
7 and other kinds and forms of tobacco, prepared in such manner  
8 as to be suitable for chewing or smoking in a pipe or  
9 otherwise, or both for chewing and smoking; but does not  
10 include cigarettes or tobacco purchased for the manufacture of  
11 cigarettes by cigarette distributors and manufacturers defined  
12 in the Cigarette Tax Act and persons who make, manufacture, or  
13 fabricate cigarettes as a part of a Correctional Industries  
14 program for sale to residents incarcerated in penal  
15 institutions or resident patients of a State operated mental  
16 health facility.

17 "Wholesale price" means the established list price for  
18 which a manufacturer sells tobacco products to a distributor,  
19 before the allowance of any discount, trade allowance, rebate,  
20 or other reduction. In the absence of such an established list  
21 price, the manufacturer's invoice price at which the  
22 manufacturer sells the tobacco product to unaffiliated  
23 distributors, before any discounts, trade allowances, rebates,  
24 or other reductions, shall be presumed to be the wholesale  
25 price.

26 "Wholesaler" means any person, wherever resident or

1 located, engaged in the business of selling tobacco products to  
2 others for the purpose of resale. "Wholesaler", when used in  
3 this Act, does not include a person licensed as a distributor  
4 under Section 10-20 of this Act unless expressly stated in this  
5 Act.

6 (Source: P.A. 97-688, eff. 6-14-12.)

7 (35 ILCS 143/10-10)

8 Sec. 10-10. Tax imposed.

9 (a) Except as otherwise provided in this Section with  
10 respect to little cigars, on ~~on~~ the first day of the third  
11 month after the month in which this Act becomes law, a tax is  
12 imposed on any person engaged in business as a distributor of  
13 tobacco products, as defined in Section 10-5, at the rate of  
14 (i) 18% of the wholesale price of tobacco products sold or  
15 otherwise disposed of to retailers or consumers located in this  
16 State prior to July 1, 2012 and (ii) 36% of the wholesale price  
17 of tobacco products sold or otherwise disposed of to retailers  
18 or consumers located in this State beginning on July 1, 2012;  
19 except that, beginning on January 1, 2013, the tax on moist  
20 snuff shall be imposed at a rate of \$0.30 per ounce, and a  
21 proportionate tax at the like rate on all fractional parts of  
22 an ounce, sold or otherwise disposed of to retailers or  
23 consumers located in this State. The tax is in addition to all  
24 other occupation or privilege taxes imposed by the State of  
25 Illinois, by any political subdivision thereof, or by any



1 municipal corporation. However, the tax is not imposed upon any  
2 activity in that business in interstate commerce or otherwise,  
3 to the extent to which that activity may not, under the  
4 Constitution and Statutes of the United States, be made the  
5 subject of taxation by this State, and except that, beginning  
6 July 1, 2013, the tax on little cigars shall be at the rate of  
7 99 mills per little cigar sold or otherwise disposed of to  
8 retailers or consumers in this State. If the amount of tax  
9 imposed under Section 2 of the Cigarette Tax Act is increased  
10 or decreased on or after the effective date of this amendatory  
11 Act of the 98th General Assembly, then, beginning on the  
12 effective date of that increase or decrease, the rate of tax  
13 imposed on little cigars under this Section shall be increased  
14 or decreased in proportion to the increase under the Cigarette  
15 Tax Act. The tax is also not imposed on sales made to the  
16 United States or any entity thereof.

17 (b) Notwithstanding subsection (a) of this Section,  
18 stamping distributors of packages of little cigars containing  
19 20 or 25 little cigars sold or otherwise disposed of in this  
20 State shall remit the tax by purchasing tax stamps from the  
21 Department and affixing them to packages of little cigars in  
22 the same manner as stamps are purchased and affixed to  
23 cigarettes under the Cigarette Tax Act, unless the stamping  
24 distributor sells or otherwise disposes of those packages of  
25 little cigars to another stamping distributor. Only persons  
26 meeting the definition of "stamping distributor" contained in

1 Section 10-5 of this Act may affix stamps to packages of little  
2 cigars containing 20 or 25 little cigars. Stamping distributors  
3 may not sell or dispose of little cigars at retail to consumers  
4 or users at locations where stamping distributors affix stamps  
5 to packages of little cigars containing 20 or 25 little cigars.

6 (c) The impact of the tax levied by this Act is imposed  
7 upon distributors engaged in the business of selling tobacco  
8 products to retailers or consumers in this State. Whenever a  
9 stamping distributor brings or causes to be brought into this  
10 State from without this State, or purchases from without or  
11 within this State, any packages of little cigars containing 20  
12 or 25 little cigars upon which there are no tax stamps affixed  
13 as required by this Act, for purposes of resale or disposal in  
14 this State to a person not a stamping distributor, then such  
15 stamping distributor shall pay the tax to the Department and  
16 add the amount of the tax to the price of such packages sold by  
17 such stamping distributor. Payment of the tax shall be  
18 evidenced by a stamp or stamps affixed to each package of  
19 little cigars containing 20 or 25 little cigars.

20 Stamping distributors paying the tax to the Department on  
21 packages of little cigars containing 20 or 25 little cigars  
22 sold to other distributors, wholesalers or retailers shall add  
23 the amount of the tax to the price of the packages of little  
24 cigars containing 20 or 25 little cigars sold by such stamping  
25 distributors.

26 (d) Beginning on January 1, 2013, the tax rate imposed per

1 ounce of moist snuff may not exceed 15% of the tax imposed upon  
2 a package of 20 cigarettes pursuant to the Cigarette Tax Act.

3 (e) All moneys received by the Department under this Act  
4 from sales occurring prior to July 1, 2012 shall be paid into  
5 the Long-Term Care Provider Fund of the State Treasury. Of the  
6 moneys received by the Department from sales occurring on or  
7 after July 1, 2012, and through June 30, 2013, 50% shall be  
8 paid into the Long-Term Care Provider Fund and 50% shall be  
9 paid into the Healthcare Provider Relief Fund. Beginning on  
10 July 1, 2013, of the moneys received by the Department of  
11 Revenue pursuant to this Act, other than moneys received from  
12 the sale of stamps affixed to packages of little cigars, 50%  
13 shall be paid into the Long-Term Care Provider Fund and 50%  
14 shall be paid into the Healthcare Provider Relief Fund.  
15 Beginning July 1, 2013, all moneys received by the Department  
16 under this Act from the sale of stamps affixed to packages of  
17 little cigars containing 20 or 25 little cigars shall be  
18 distributed as provided in subsection (a) of Section 2 of the  
19 Cigarette Tax Act.

20 (Source: P.A. 97-688, eff. 6-14-12.)

21 (35 ILCS 143/10-15)

22 Sec. 10-15. Exempt sales. Purchases of tobacco products  
23 other than little cigars by wholesalers who will not sell the  
24 product at retail are exempt from the tax imposed by this Act.  
25 Purchases of tobacco products other than little cigars by

1 wholesalers and retailers for delivery of the product outside  
2 Illinois are exempt from the tax imposed by this Act. The  
3 wholesaler or retailer making the exempt sale of tobacco  
4 products other than little cigars shall document this exemption  
5 by obtaining a certification from the purchaser containing the  
6 seller's name and address, the purchaser's name and address,  
7 the date of purchase, the purchaser's signature, the  
8 purchaser's tobacco products tax license number, if  
9 applicable, and a statement that the purchaser is purchasing  
10 for resale other than for sale to consumers or is purchasing  
11 for delivery outside of Illinois.

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

13 (35 ILCS 143/10-26 new)

14 Sec. 10-26. Manufacturers, sale of little cigars.  
15 Manufacturers that are not stamping distributors may not sell  
16 little cigars to consumers in this State or to distributors,  
17 wholesalers or retailers, unless the distributors, wholesalers  
18 or retailers are stamping distributors. Manufacturers that are  
19 not stamping distributors may sell little cigars only to  
20 stamping distributors. Manufacturers that are not stamping  
21 distributors are prohibited from delivering little cigars to  
22 locations where sales of little cigars to consumers or users  
23 take place.

24 (35 ILCS 143/10-27 new)

1       Sec. 10-27. Retailers, purchase and possession of little  
2 cigars.

3       (a) Retailers are prohibited from possessing unstamped  
4 packages of little cigars containing 20 or 25 little cigars at  
5 locations where retailers make sales of little cigars to  
6 consumers or users. Retailers that are also stamping  
7 distributors are prohibited from possessing unstamped little  
8 cigars at locations where those retailers make sales of  
9 packages of little cigars containing 20 or 25 little cigars to  
10 consumers or users. Retailers that are not stamping  
11 distributors shall purchase stamped packages of little cigars  
12 containing 20 or 25 little cigars for resale only from stamping  
13 distributors, distributors, or wholesalers. Retailers who are  
14 not stamping distributors may not purchase or possess unstamped  
15 packages of little cigars containing 20 or 25 little cigars. A  
16 retailer must be a stamping distributor to make tax exempt  
17 sales of packages of little cigars containing 20 or 25 little  
18 cigars for use outside of this State. A retailer who is a  
19 stamping distributor making sales of stamped packages of little  
20 cigars for use outside of this State may file a claim for  
21 credit for such sales with the Department on forms and in the  
22 manner provided by the Department.

23       (b) For purchases of packages of little cigars containing  
24 other than 20 or 25 little cigars, retailers who are not  
25 stamping distributors may not purchase or possess such packages  
26 of little cigars, unless the retailer receives an invoice from

1 a stamping distributor, distributor, or wholesaler stating the  
2 tax on the packages has been or will be paid. Retailers shall  
3 retain such invoices for inspection by the Department. If a  
4 retailer maintaining multiple retail locations notifies the  
5 Department in writing that it maintains its invoices at a  
6 centralized business location, the Department shall have the  
7 authority to inspect invoices at the centralized business  
8 location at all times during the usual business hours of the  
9 day and the Department may grant the retailer 3 business days  
10 to produce the invoices at the retail location at which the  
11 request was made. A retailer must be a stamping distributor to  
12 make tax exempt sales of packages of little cigars containing  
13 other than 20 or 25 little cigars for use outside of this  
14 State. A retailer who is a stamping distributor making sales of  
15 packages of little cigars containing other than 20 or 25 little  
16 cigars for use outside of this State on which the tax has been  
17 or will be paid by another stamping distributor or was paid by  
18 the retailer may file a claim for credit for such sales with  
19 the Department on forms and in the manner provided by the  
20 Department.

21 (c) Notwithstanding anything to the contrary in this Act, a  
22 retailer unknowingly possessing contraband little cigars  
23 obtained from a stamping distributor, distributor, or  
24 wholesaler or other person engaged in the business of selling  
25 tobacco products or knowingly possessing contraband little  
26 cigars obtained from a stamping distributor is not subject to

1 penalties for such purchase or possession if the retailer,  
2 within 48 hours after discovering that the little cigars are  
3 contraband little cigars, excluding Saturdays, Sundays, and  
4 holidays: (i) notifies the Department and the person from whom  
5 the little cigars were obtained, orally and in writing, that he  
6 or she possesses contraband little cigars; (ii) places the  
7 contraband little cigars in one or more containers and seals  
8 those containers; and (iii) places on the containers the  
9 following or similar language: "Contraband Little cigars. Not  
10 For Sale." All contraband little cigars in the possession of a  
11 retailer remain subject to forfeiture under the provisions of  
12 this Act.

13 (35 ILCS 143/10-28 new)

14 Sec. 10-28. Wholesalers.

15 (a) Wholesalers are prohibited from possessing unstamped  
16 packages of little cigars containing 20 or 25 little cigars  
17 unless the wholesalers are stamping distributors. A wholesaler  
18 must be a stamping distributor to make tax exempt sales of  
19 packages of little cigars containing 20 or 25 little cigars for  
20 use outside of this State. A wholesaler who is a stamping  
21 distributor making sales of stamped packages of little cigars  
22 for use outside of this State may file a claim for credit for  
23 such sales with the Department on forms and in the manner  
24 provided by the Department.

25 (b) For purchases of packages of little cigars containing

1 other than 20 or 25 little cigars, wholesalers who are not  
2 stamping distributors may not purchase or possess such packages  
3 of little cigars, unless the wholesalers receive an invoice  
4 from a stamping distributor, distributor, or wholesaler  
5 stating the tax on the packages has been or will be paid.  
6 Wholesalers shall retain such invoices for inspection by the  
7 Department. Every sales invoice for packages of little cigars  
8 containing other than 20 or 25 little cigars issued by a  
9 wholesaler to a person who is not a stamping distributor shall  
10 state that the tax imposed by the Act has been or will be paid.  
11 If a wholesaler maintaining multiple wholesale locations  
12 notifies the Department in writing that it maintains its  
13 invoices at a centralized business location, the Department  
14 shall have the authority to inspect invoices at the centralized  
15 business location at all times during the usual business hours  
16 of the day and the Department may grant the wholesaler 3  
17 business days to produce the invoices at the wholesale location  
18 at which the request was made. A wholesaler must be a stamping  
19 distributor to make tax exempt sales of packages of little  
20 cigars containing other than 20 or 25 little cigars for use  
21 outside of this State. A wholesaler who is a stamping  
22 distributor making sales of packages of little cigars  
23 containing other than 20 or 25 little cigars for use outside of  
24 this State on which the tax has been or will be paid by another  
25 stamping distributor or was paid by the wholesaler may file a  
26 claim for credit for such sales with the Department on forms



1 and in the manner provided by the Department.

2 (35 ILCS 143/10-29 new)

3 Sec. 10-29. Invoices, packages of little cigars.

4 (a) Every sales invoice for packages of little cigars  
5 containing other than 20 or 25 little cigars issued by a  
6 stamping distributor to a person who is not a stamping  
7 distributor, shall contain both the stamping distributor's  
8 Tobacco Products License number and Cigarette Tax  
9 Distributor's License number or Cigarette Use Tax  
10 Distributor's License number, and state that the tax imposed by  
11 the Act has been or will be paid or that the sale is exempt in  
12 whole or in part and the exemption which is claimed.

13 (b) Any stamping distributor, distributor or wholesaler  
14 who knowingly falsely states on the invoice that the tax  
15 imposed by this Act has been or will be paid, or any officer or  
16 employee of a corporation, member or employee of a partnership,  
17 or manager, member or employee of a limited liability company  
18 that is a stamping distributor, distributor or wholesaler, who,  
19 as such officer, employee, manager, or member knowingly causes  
20 to be issued an invoice on behalf of such entity, that such  
21 person knows falsely states that the tax imposed by the Act has  
22 been or will be paid, is guilty of a Class 4 felony.

23 (c) Whenever any sales invoice issued by a stamping  
24 distributor, distributor or wholesaler for the sale of packages  
25 of little cigars containing other than 20 or 25 little cigars

1 does not comply with subsection (b) of Section 10-28 or  
2 subsection (a) of this Section by indicating that the tax has  
3 been or will be paid or that the sale is exempt in whole or in  
4 part, a prima facie presumption shall arise that the tax  
5 imposed by Section 10-10 of this Act has not been paid on the  
6 little cigars listed on the sales invoice. A person who is not  
7 a stamping distributor and is unable to rebut this presumption  
8 is in violation of this Act and is subject to the penalties  
9 provided in this Act.

10 (35 ILCS 143/10-30)

11 Sec. 10-30. Returns. Every stamping distributor shall, on  
12 or before the 15th day of each month, file a return with the  
13 Department covering the preceding calendar month. The return  
14 shall disclose the wholesale price for all tobacco products,  
15 the quantity of little cigars sold or otherwise disposed of,  
16 including the quantity of packages of little cigars containing  
17 20 or 25 little cigars sold or otherwise disposed of, ~~and~~ the  
18 quantity of moist snuff sold or otherwise disposed of and other  
19 information that the Department may reasonably require. The  
20 return shall be filed upon a form prescribed and furnished by  
21 the Department.

22 At the time when any return of any distributor is due to be  
23 filed with the Department, the distributor shall also remit to  
24 the Department the tax liability that the distributor has  
25 incurred for transactions occurring in the preceding calendar

1 month.

2 The Department may adopt rules to require the electronic  
3 filing of any return or document required to be filed under  
4 this Act. Such rules may provide for exceptions from the filing  
5 requirement of this paragraph for persons who demonstrate that  
6 they do not have access to the Internet and petition the  
7 Department to waive the electronic filing requirement.

8 (Source: P.A. 97-688, eff. 6-14-12.)

9 (35 ILCS 143/10-36 new)

10 Sec. 10-36. Recordkeeping by retailers. Every retailer  
11 shall keep complete and accurate records of tobacco products  
12 held and purchased, and tobacco products sold, or otherwise  
13 disposed of, and shall preserve and keep all invoices, bills of  
14 lading, sales records, and copies of bills of sale. Books,  
15 records, papers, and documents that are required by this Act to  
16 be kept shall, at all times during the usual business hours of  
17 the day, be subject to inspection by the Department or its duly  
18 authorized agents and employees. The books, records, papers,  
19 and documents for any period with respect to which the  
20 Department is authorized to issue a notice of tax liability  
21 shall be preserved until the expiration of that period.

22 (35 ILCS 143/10-45)

23 Sec. 10-45. Incorporation by reference. All of the  
24 provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h,

1 5i, 5j, 6, 6a, 6b, 6c, 8, 9, 10, 11, 11a, and 12 of the  
2 Retailers' Occupation Tax Act, and all applicable provisions of  
3 the Uniform Penalty and Interest Act that are not inconsistent  
4 with this Act, apply to distributors of tobacco products to the  
5 same extent as if those provisions were included in this Act.  
6 References in the incorporated Sections of the Retailers'  
7 Occupation Tax Act to retailers, to sellers, or to persons  
8 engaged in the business of selling tangible personal property  
9 mean distributors when used in this Act. References in the  
10 incorporated Sections to sales of tangible personal property  
11 mean sales of tobacco products when used in this Act.

12 All of the provisions of Sections 7, 8, 8a, 16, 18a, 18b,  
13 18c, 22, 23, 24, 26, 27, and 28a of the Cigarette Tax Act which  
14 are not inconsistent with this Act shall apply, as far as  
15 practicable, to the subject matter of this Act to the same  
16 extent as if those provisions were included in this Act.  
17 References in the incorporated Sections to sales of cigarettes  
18 mean sales of little cigars in packages of 20 or 25 little  
19 cigars.

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

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law."