

SB2288



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2288

Introduced 10/28/2019, by Sen. Sue Rezin

SYNOPSIS AS INTRODUCED:

35 ILCS 143/10-25
410 ILCS 82/27 new

Amends the Tobacco Products Tax Act of 1995. Permits the Department of Revenue to suspend the license of any retailer that violates the amendatory Act's provisions. Amends the Smoke Free Illinois Act. Prohibits the sale or distribution of a tobacco product, electronic cigarette, or alternative nicotine product within 100 feet of a school if the school is not an institution of higher learning. Provides that any person or retail tobacco store who violates this provision is guilty of a petty offense and shall be subject to specified civil penalties.

LRB101 14468 CPF 64115 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

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

4 Section 5. The Tobacco Products Tax Act of 1995 is amended
5 by changing Section 10-25 as follows:

6 (35 ILCS 143/10-25)

7 Sec. 10-25. License actions.

8 (a) The Department may, after notice and a hearing, revoke,
9 cancel, or suspend the license of any distributor or retailer
10 who violates any of the provisions of this Act, fails to keep
11 books and records as required under this Act, fails to make
12 books and records available for inspection upon demand by a
13 duly authorized employee of the Department, or violates a rule
14 or regulation of the Department for the administration and
15 enforcement of this Act. The notice shall specify the alleged
16 violation or violations upon which the revocation,
17 cancellation, or suspension proceeding is based.

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

22 (b-5) The Department may suspend the license of any
23 retailer for a violation of Section 27 of the Smoke Free

1 Illinois Act.

2 (c) If the retailer has a training program that facilitates
3 compliance with minimum-age tobacco laws, the Department shall
4 suspend for 3 days the license of that retailer for a fourth or
5 subsequent violation of the Prevention of Tobacco Use by
6 Persons under 21 Years of Age and Sale and Distribution of
7 Tobacco Products Act, as provided in subsection (a) of Section
8 2 of that Act. For the purposes of this Section, any violation
9 of subsection (a) of Section 2 of the Prevention of Tobacco Use
10 by Persons under 21 Years of Age and Sale and Distribution of
11 Tobacco Products Act occurring at the retailer's licensed
12 location, during a 24-month period, shall be counted as a
13 violation against the retailer.

14 If the retailer does not have a training program that
15 facilitates compliance with minimum-age tobacco laws, the
16 Department shall suspend for 3 days the license of that
17 retailer for a second violation of the Prevention of Tobacco
18 Use by Persons under 21 Years of Age and Sale and Distribution
19 of Tobacco Products Act, as provided in subsection (a-5) of
20 Section 2 of that Act.

21 If the retailer does not have a training program that
22 facilitates compliance with minimum-age tobacco laws, the
23 Department shall suspend for 7 days the license of that
24 retailer for a third violation of the Prevention of Tobacco Use
25 by Persons under 21 Years of Age and Sale and Distribution of
26 Tobacco Products Act, as provided in subsection (a-5) of

1 Section 2 of that Act.

2 If the retailer does not have a training program that
3 facilitates compliance with minimum-age tobacco laws, the
4 Department shall suspend for 30 days the license of a retailer
5 for a fourth or subsequent violation of the Prevention of
6 Tobacco Use by Persons under 21 Years of Age and Sale and
7 Distribution of Tobacco Products Act, as provided in subsection
8 (a-5) of Section 2 of that Act.

9 A training program that facilitates compliance with
10 minimum-age tobacco laws must include at least the following
11 elements: (i) it must explain that only individuals displaying
12 valid identification demonstrating that they are 21 years of
13 age or older shall be eligible to purchase cigarettes or
14 tobacco products and (ii) it must explain where a clerk can
15 check identification for a date of birth. The training may be
16 conducted electronically. Each retailer that has a training
17 program shall require each employee who completes the training
18 program to sign a form attesting that the employee has received
19 and completed tobacco training. The form shall be kept in the
20 employee's file and may be used to provide proof of training.

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

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

6 (Source: P.A. 100-940, eff. 8-17-18; 101-2, eff. 7-1-19.)

7 Section 10. The Smoke Free Illinois Act is amended by
8 adding Section 27 as follows:

9 (410 ILCS 82/27 new)

10 Sec. 27. Sale or distribution of tobacco products,
11 electronic cigarettes, or alternative nicotine products near
12 schools.

13 (a) In this Section:

14 "Alternative nicotine product" has the same meaning as
15 provided in Section 1 of the Prevention of Tobacco Use by
16 Persons under 21 Years of Age and Sale and Distribution of
17 Tobacco Products Act.

18 "Electronic cigarette" has the same meaning as provided in
19 Section 1 of the Prevention of Tobacco Use by Persons under 21
20 Years of Age and Sale and Distribution of Tobacco Products Act.

21 "Institution of higher learning" has the same meaning as
22 provided in Section 17-0.5 of the Criminal Code of 2012.

23 "Tobacco product" has the same meaning as provided in
24 Section 1 of the Prevention of Tobacco Use by Persons under 21

1 Years of Age and Sale and Distribution of Tobacco Products Act.

2 (b) The sale or distribution of a tobacco product,
3 electronic cigarette, or alternative nicotine product is
4 prohibited within 100 feet of a school if the school is not an
5 institution of higher learning.

6 (c) Any person or retail tobacco store who violates this
7 Section is guilty of a petty offense. For the first offense in
8 a 24-month period, the person or retail tobacco store shall be
9 fined \$200. For the second offense in a 24-month period, the
10 person or retail tobacco store shall be fined \$400. For the
11 third offense in a 24-month period, the person or retail
12 tobacco store shall be fined \$600. For the fourth or subsequent
13 offense in a 24-month period, the person or retail tobacco
14 store shall be fined \$800. For the purposes of this subsection,
15 the 24-month period shall begin with the person's or retail
16 tobacco store's first violation of the Act. The penalties in
17 this subsection are in addition to any other penalties
18 prescribed under any other provision of law.

19 (d) Upon a decision by the Department that a retail tobacco
20 store or a retail tobacco store's agent or employee has engaged
21 in any conduct that violates this Section, the Department of
22 Revenue may suspend that retail tobacco store's retailer's
23 license under Section 10-25 of the Tobacco Products Tax Act of
24 1995. Any suspension shall be preceded by a notice of
25 correction or a notice of initial determination of violation.