

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 1. Short title. This Act may be cited as the
5 Preventing Youth Vaping Act.

6 Section 5. Definitions. In this Act:

7 "Additive" means any substance the intended use of which
8 results or may reasonably be expected to result, directly or
9 indirectly, in it becoming a component or otherwise affecting
10 the characteristic of any tobacco product, including, but not
11 limited to, any substances intended for use as a flavoring or
12 coloring or in producing, manufacturing, packing, processing,
13 preparing, treating, packaging, transporting, or holding.
14 "Additive" does not include tobacco or a pesticide chemical
15 residue in or on raw tobacco or a pesticide chemical.

16 "Consumer" means an individual who acquires or seeks to
17 acquire electronic cigarettes for personal use.

18 "Distributor" means a person who sells, offers for sale,
19 or transfers any tobacco, electronic cigarette, or tobacco
20 product for resale and not for use or consumption.

21 "Distributor" includes a distributor as defined in Section 1
22 of the Cigarette Tax Act, Section 1 of the Cigarette Use Tax
23 Act, and Section 10-5 of the Tobacco Products Tax Act of 1995.

1 "Electronic cigarette" means:

2 (1) any device that employs a battery or other
3 mechanism to heat a solution or substance to produce a
4 vapor or aerosol intended for inhalation;

5 (2) any cartridge or container of a solution or
6 substance intended to be used with or in the device or to
7 refill the device; or

8 (3) any solution or substance, whether or not it
9 contains nicotine, intended for use in the device.

10 "Electronic cigarette" includes, but is not limited to,
11 any electronic nicotine delivery system, electronic cigar,
12 electronic cigarillo, electronic pipe, electronic hookah, vape
13 pen, or similar product or device, and any component, part, or
14 accessory of a device used during the operation of the device
15 even if the part or accessory was sold separately. "Electronic
16 cigarette" does not include: cigarettes, as defined in Section
17 1 of the Cigarette Tax Act; any product approved by the United
18 States Food and Drug Administration for sale as a smoking
19 cessation product, a tobacco dependence product, or for other
20 medical purposes that is marketed and sold solely for that
21 approved purpose; any asthma inhaler prescribed by a physician
22 for that condition that is marketed and sold solely for that
23 approved purpose; any device that meets the definition of
24 cannabis paraphernalia under Section 1-10 of the Cannabis
25 Regulation and Tax Act; or any cannabis product sold by a
26 dispensing organization pursuant to the Cannabis Regulation

1 and Tax Act or the Compassionate Use of Medical Cannabis
2 Program Act.

3 "Manufacturer" means any person, wherever resident or
4 located, who manufactures and sells tobacco products.
5 "Manufacturer" does not include a person who makes,
6 manufactures, or fabricates tobacco products as a part of a
7 correctional industries program for sale to persons
8 incarcerated in penal institutions or resident patients of a
9 State-operated mental health facility.

10 "Modified risk tobacco product" means any tobacco product
11 that is sold or distributed to reduce harm or the risk of
12 tobacco related disease associated with commercially marketed
13 tobacco products.

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

17 "Retailer" means a person who engages in this State in the
18 sale of or offers for sale electronic cigarettes for use or
19 consumption and not for resale in any form. "Retailer"
20 includes a retailer as defined in Section 1 of the Cigarette
21 Tax Act and Section 10-5 of the Tobacco Products Tax Act of
22 1995.

23 "Secondary distributor" has the same meaning as defined in
24 Section 1 of the Cigarette Tax Act and Section 1 of the
25 Cigarette Use Tax Act.

26 "Tobacco product" has the same meaning as defined in

1 Section 10-5 of the Tobacco Products Tax Act of 1995.

2 Section 10. Enforcement; rulemaking.

3 (a) The Department of Revenue may adopt rules that are
4 reasonable, necessary, and related to the administration and
5 enforcement of this Act.

6 (b) The Department of Revenue, the Department of Public
7 Health, a local public health department, the Department of
8 Human Services, the Illinois State Police, a county sheriff,
9 and a municipal police department may inspect any business
10 that sells, manufactures, transports, or distributes
11 electronic cigarettes in the State to ensure compliance with
12 this Act.

13 Section 15. Prohibitions.

14 (a) It is unlawful for a person to do any of the following:

15 (1) To sell or distribute in this State; to acquire,
16 hold, own, possess, or transport, for sale or distribution
17 in this State; or to import, or cause to be imported into
18 this State for sale or distribution in this State:

19 (A) any electronic cigarette with packaging that:

20 (i) bears any statement, label, stamp,
21 sticker, or notice indicating that the
22 manufacturer did not intend the electronic
23 cigarette to be sold, distributed, or used in the
24 United States, including, but not limited to,

1 labels stating "For Export Only", "U.S. Tax
2 Exempt", "For Use Outside U.S.", or similar
3 wording; or

4 (ii) does not comply with:

5 (I) all requirements imposed by or
6 pursuant to federal law regarding warnings and
7 other information on packages of electronic
8 cigarettes manufactured, packaged, or imported
9 for sale, distribution, or use in the United
10 States; and

11 (II) all federal trademark and copyright
12 laws; and

13 (B) any electronic cigarette that the person
14 otherwise knows or has reason to know the manufacturer
15 did not intend to be sold, distributed, or used in the
16 United States.

17 (2) To alter the packaging of an electronic cigarette,
18 prior to sale or distribution to the ultimate consumer, so
19 as to remove, conceal, or obscure any statement, label,
20 stamp, sticker, or notice required under this Section or
21 federal law.

22 (3) To affix any stamp required under this Act to the
23 packaging of any electronic cigarettes described in
24 subparagraph (A) of paragraph (1) or altered in violation
25 of subparagraph (A) of paragraph (1).

26 (4) To adulterate an electronic cigarette for sale in

1 this State. An electronic cigarette is adulterated if:

2 (A) it consists in whole or in part of any filthy,
3 putrid, or decomposed substance, or is otherwise
4 contaminated by any added poisonous or deleterious
5 substance that may render the product injurious to
6 health;

7 (B) it is held or packaged in containers composed,
8 in whole or in part, of any poisonous or deleterious
9 substance that may render the contents injurious to
10 health; or

11 (C) it is required by 21 U.S.C. 387j(a) to have
12 premarket review and does not have an order in effect
13 under 21 U.S.C. 387j(c)(1)(A)(i) or is in violation of
14 an order under 21 U.S.C. 387j(c)(1)(A).

15 Electronic cigarettes first sold prior to August 8, 2016
16 and for which a premarket tobacco product application was
17 submitted to the U.S. Food and Drug Administration by
18 September 9, 2020 shall not be deemed to be adulterated under
19 subparagraph (C) of paragraph (4) of this subsection.

20 (b) A distributor, secondary distributor, retailer, or
21 person who violates this Section shall be guilty of a Class 4
22 felony.

23 (c) Any violation of this Act shall be reported to the
24 Department of Revenue within 7 business days.

25 Section 20. Additives. An electronic cigarette for sale in

1 this State shall not include the following additives:

- 2 (1) polyethylene glycol (PEG);
3 (2) vitamin E acetate; or
4 (3) medium chain triglycerides (MCT oil).

5 Section 25. Advertising.

6 (a) A manufacturer, distributor, or retailer may not
7 advertise, market, or promote an electronic cigarette as a
8 modified risk tobacco product unless it has been designated as
9 a modified risk tobacco product by the United States Food and
10 Drug Administration.

11 (b) A manufacturer, distributor, or retailer may not
12 advertise, market, or promote or advertise an electronic
13 cigarette as providing smoking cessation benefits to consumers
14 unless it has approval from the United States Food and Drug
15 Administration to market its electronic cigarette as a medical
16 product for such purpose.

17 (c) A manufacturer, distributor, or retailer may not
18 advertise, market, or promote an electronic cigarette in a
19 manner that includes fraudulent or misleading terms or
20 statements.

21 (d) A manufacturer, distributor, or retailer may not
22 advertise, market, or promote an electronic cigarette in a
23 manner that:

- 24 (1) encourages persons under 21 years of age to use an
25 electronic cigarette; or

1 (2) is attractive to persons under 21 years of age,
2 including, but not limited to, inclusion of the following:

3 (A) cartoons;

4 (B) an image, character, or phrase that is similar
5 to one popularly used to advertise to children; or

6 (C) a video game, movie, video, or animated
7 television show known to appeal primarily to persons
8 under 21 years of age.

9 Section 30. Manufacturer requirements. A manufacturer
10 shall ensure that the label on an electronic cigarette
11 container meets the nicotine addictiveness warning statement
12 requirements under 21 CFR 1143.3.

13 Section 35. Violations.

14 (a) Upon a finding that a distributor, secondary
15 distributor, retailer, or person has committed any of the
16 conduct prohibited under this Act or any rule adopted under
17 this Act, knowing or having reason to know that he or she has
18 done so, the Department of Revenue may: revoke or suspend the
19 license or licenses of the distributor, secondary distributor,
20 retailer, or person pursuant to the procedures set forth in
21 the Cigarette Tax Act, Cigarette Use Tax Act, or the Tobacco
22 Products Tax Act of 1995; and impose on the distributor,
23 secondary distributor, retailer, or person a civil penalty in
24 an amount not to exceed the greater of 500% of the retail value

1 of the electronic cigarettes involved or \$10,000.

2 (b) Electronic cigarettes that are acquired in, held in,
3 owned in, possessed in, transported within, imported into, or
4 sold or distributed across this State in violation of this Act
5 shall be deemed contraband under this Act and are subject to
6 seizure and forfeiture as provided in subsection (g) of
7 Section 1 of the Prevention of Tobacco Use by Persons under 21
8 Years of Age and Sale and Distribution of Tobacco Products
9 Act, and all such electronic cigarettes seized and forfeited
10 shall be destroyed or maintained and used in an undercover
11 capacity. Such electronic cigarettes shall be deemed
12 contraband whether the violation of this Act is knowing or
13 otherwise.

14 (c) The Attorney General may enforce violations of Section
15 15 or 25 of this Act as an unlawful practice under the Consumer
16 Fraud and Deceptive Business Practices Act.

17 Section 40. The Prevention of Tobacco Use by Persons under
18 21 Years of Age and Sale and Distribution of Tobacco Products
19 Act is amended by changing Section 1 as follows:

20 (720 ILCS 675/1) (from Ch. 23, par. 2357)

21 Sec. 1. Prohibition on sale of tobacco products,
22 electronic cigarettes, and alternative nicotine products to
23 persons under 21 years of age; prohibition on the distribution
24 of tobacco product samples, electronic cigarette samples, and

1 alternative nicotine product samples to any person; use of
2 identification cards; vending machines; lunch wagons;
3 out-of-package sales.

4 ~~(a) No person under 21 years of age shall buy any tobacco~~
5 ~~product, electronic cigarette, or alternative nicotine~~
6 ~~product.~~ No person shall sell, buy for, distribute samples of
7 or furnish any tobacco product, electronic cigarette, or ~~any~~
8 alternative nicotine product to any person under 21 years of
9 age.

10 (a-5) No person under 16 years of age may sell any tobacco
11 product, electronic cigarette, or alternative nicotine product
12 at a retail establishment selling tobacco products, electronic
13 cigarettes, or alternative nicotine products. This subsection
14 does not apply to a sales clerk in a family-owned business
15 which can prove that the sales clerk is in fact a son or
16 daughter of the owner.

17 (a-5.1) Before selling, offering for sale, giving, or
18 furnishing a tobacco product, electronic cigarette, or
19 alternative nicotine product to another person, the person
20 selling, offering for sale, giving, or furnishing the tobacco
21 product, electronic cigarette, or alternative nicotine product
22 shall verify that the person is at least 21 years of age by:

23 (1) examining from any person that appears to be under
24 30 years of age a government-issued photographic
25 identification that establishes the person to be 21 years
26 of age or older; or

1 (2) for sales of tobacco products, electronic
2 cigarettes, or alternative nicotine products made through
3 the Internet or other remote sales methods, performing an
4 age verification through an independent, third party age
5 verification service that compares information available
6 from public records to the personal information entered by
7 the person during the ordering process that establishes
8 the person is 21 years of age or older.

9 (a-6) No person under 21 years of age in the furtherance or
10 facilitation of obtaining any tobacco product, electronic
11 cigarette, or alternative nicotine product shall display or
12 use a false or forged identification card or transfer, alter,
13 or deface an identification card.

14 (a-7) (Blank).

15 (a-8) A person shall not distribute without charge samples
16 of any tobacco product, alternative nicotine product, or
17 electronic cigarette to any other person, regardless of age,
18 except for smokeless tobacco in an adult-only facility.

19 This subsection (a-8) does not apply to the distribution
20 of a tobacco product, electronic cigarette, or alternative
21 nicotine product sample in any adult-only facility.

22 (a-9) For the purpose of this Section:

23 "Adult-only facility" means a facility or restricted
24 area (whether open-air or enclosed) where the operator
25 ensures or has a reasonable basis to believe (such as by
26 checking identification as required under State law, or by

1 checking the identification of any person appearing to be
2 under the age of 30) that no person under legal age is
3 present. A facility or restricted area need not be
4 permanently restricted to persons under 21 years of age to
5 constitute an adult-only facility, provided that the
6 operator ensures or has a reasonable basis to believe that
7 no person under 21 years of age is present during the event
8 or time period in question.

9 "Alternative nicotine product" means a product or
10 device not consisting of or containing tobacco that
11 provides for the ingestion into the body of nicotine,
12 whether by chewing, smoking, absorbing, dissolving,
13 inhaling, snorting, sniffing, or by any other means.
14 "Alternative nicotine product" does not include:
15 cigarettes as defined in Section 1 of the Cigarette Tax
16 Act and tobacco products as defined in Section 10-5 of the
17 Tobacco Products Tax Act of 1995; tobacco product and
18 electronic cigarette as defined in this Section; or any
19 product approved by the United States Food and Drug
20 Administration for sale as a tobacco cessation product, as
21 a tobacco dependence product, or for other medical
22 purposes, and is being marketed and sold solely for that
23 approved purpose.

24 "Electronic cigarette" means:

25 (1) any device that employs a battery or other
26 mechanism to heat a solution or substance to produce a

1 vapor or aerosol intended for inhalation;

2 (2) any cartridge or container of a solution or
3 substance intended to be used with or in the device or
4 to refill the device; or

5 (3) any solution or substance, whether or not it
6 contains nicotine intended for use in the device.

7 "Electronic cigarette" includes, but is not limited
8 to, any electronic nicotine delivery system, electronic
9 cigar, electronic cigarillo, electronic pipe, electronic
10 hookah, vape pen, or similar product or device, ~~and~~ any
11 components or parts that can be used to build the product
12 or device, and any component, part, or accessory of a
13 device used during the operation of the device, even if
14 the part or accessory was sold separately. "Electronic
15 cigarette" does not include: cigarettes as defined in
16 Section 1 of the Cigarette Tax Act ~~and tobacco products as~~
17 ~~defined in Section 10 5 of the Tobacco Products Tax Act of~~
18 ~~1995~~; tobacco product and alternative nicotine product as
19 defined in this Section; any product approved by the
20 United States Food and Drug Administration for sale as a
21 tobacco cessation product, as a tobacco dependence
22 product, or for other medical purposes, and is being
23 marketed and sold solely for that approved purpose; any
24 asthma inhaler prescribed by a physician for that
25 condition and is being marketed and sold solely for that
26 approved purpose; any device that meets the definition of

1 cannabis paraphernalia under Section 1-10 of the Cannabis
2 Regulation and Tax Act; or any cannabis therapeutic
3 product sold by a dispensing organization pursuant to the
4 Cannabis Regulation and Tax Act or ~~approved for use under~~
5 the Compassionate Use of Medical Cannabis ~~Pilot~~ Program
6 Act.

7 "Lunch wagon" means a mobile vehicle designed and
8 constructed to transport food and from which food is sold
9 to the general public.

10 "Nicotine" means any form of the chemical nicotine,
11 including any salt or complex, regardless of whether the
12 chemical is naturally or synthetically derived.

13 "Tobacco product" means any product containing or made
14 from tobacco that is intended for human consumption,
15 whether smoked, heated, chewed, absorbed, dissolved,
16 inhaled, snorted, sniffed, or ingested by any other means,
17 including, but not limited to, cigarettes, cigars, little
18 cigars, chewing tobacco, pipe tobacco, snuff, snus, and
19 any other smokeless tobacco product which contains tobacco
20 that is finely cut, ground, powdered, or leaf and intended
21 to be placed in the oral cavity. "Tobacco product"
22 includes any component, part, or accessory of a tobacco
23 product, whether or not sold separately. "Tobacco product"
24 does not include: an ~~electronic cigarette and~~ alternative
25 nicotine product as defined in this Section; or any
26 product that has been approved by the United States Food

1 and Drug Administration for sale as a tobacco cessation
2 product, as a tobacco dependence product, or for other
3 medical purposes, and is being marketed and sold solely
4 for that approved purpose.

5 (b) Tobacco products, electronic cigarettes, and
6 alternative nicotine products may be sold through a vending
7 machine only if such tobacco products, electronic cigarettes,
8 and alternative nicotine products are not placed together with
9 any non-tobacco product, other than matches, in the vending
10 machine and the vending machine is in any of the following
11 locations:

12 (1) (Blank).

13 (2) Places to which persons under 21 years of age are
14 not permitted access at any time.

15 (3) Places where alcoholic beverages are sold and
16 consumed on the premises and vending machine operation is
17 under the direct supervision of the owner or manager.

18 (4) (Blank).

19 (5) (Blank).

20 (c) (Blank).

21 (d) The sale or distribution by any person of a tobacco
22 product as defined in this Section, including but not limited
23 to a single or loose cigarette, that is not contained within a
24 sealed container, pack, or package as provided by the
25 manufacturer, which container, pack, or package bears the
26 health warning required by federal law, is prohibited.

1 (e) It is not a violation of this Act for a person under 21
2 years of age to purchase a tobacco product, electronic
3 cigarette, or alternative nicotine product if the person under
4 the age of 21 purchases or is given the tobacco product,
5 electronic cigarette, or alternative nicotine product in any
6 of its forms from a retail seller of tobacco products,
7 electronic cigarettes, or alternative nicotine products or an
8 employee of the retail seller pursuant to a plan or action to
9 investigate, patrol, or otherwise conduct a "sting operation"
10 or enforcement action against a retail seller of tobacco
11 products, electronic cigarettes, or alternative nicotine
12 products or a person employed by the retail seller of tobacco
13 products, electronic cigarettes, or alternative nicotine
14 products or on any premises authorized to sell tobacco
15 products, electronic cigarettes, or alternative nicotine
16 products to determine if tobacco products, electronic
17 cigarettes, or alternative nicotine products are being sold or
18 given to persons under 21 years of age if the "sting operation"
19 or enforcement action is approved by, conducted by, or
20 conducted on behalf of the Department of State Police, the
21 county sheriff, a municipal police department, the Department
22 of Revenue, the Department of Public Health, or a local health
23 department. The results of any sting operation or enforcement
24 action, including the name of the clerk, shall be provided to
25 the retail seller within 7 business days.

26 (f) No person shall honor or accept any discount, coupon,

1 or other benefit or reduction in price that is inconsistent
2 with 21 CFR 1140, subsequent United States Food and Drug
3 Administration industry guidance, or any rules adopted under
4 21 CFR 1140.

5 (g) Any peace officer or duly authorized member of the
6 Illinois State Police, a county sheriff's department, a
7 municipal police department, the Department of Revenue, the
8 Department of Public Health, a local health department, or the
9 Department of Human Services, upon discovering a violation of
10 subsection (a), (a-5), (a-5.1), (a-8), (b), or (d) of this
11 Section or a violation of the Preventing Youth Vaping Act, may
12 seize any tobacco products, alternative nicotine products, or
13 electronic cigarettes of the specific type involved in that
14 violation that are located at that place of business. The
15 tobacco products, alternative nicotine products, or electronic
16 cigarettes so seized are subject to confiscation and
17 forfeiture.

18 (h) If, within 60 days after any seizure under subsection
19 (g), a person having any property interest in the seized
20 property is charged with an offense under this Section or a
21 violation of the Preventing Youth Vaping Act, the court that
22 renders judgment upon the charge shall, within 30 days after
23 the judgment, conduct a forfeiture hearing to determine
24 whether the seized tobacco products or electronic cigarettes
25 were part of the inventory located at the place of business
26 when a violation of subsection (a), (a-5), (a-5.1), (a-8),

1 (b), or (d) of this Section or a violation of the Preventing
2 Youth Vaping Act occurred and whether any seized tobacco
3 products or electronic cigarettes were of a type involved in
4 that violation. The hearing shall be commenced by a written
5 petition by the State, which shall include material
6 allegations of fact, the name and address of every person
7 determined by the State to have any property interest in the
8 seized property, a representation that written notice of the
9 date, time, and place of the hearing has been mailed to every
10 such person by certified mail at least 10 days before the date,
11 and a request for forfeiture. Every such person may appear as a
12 party and present evidence at the hearing. The quantum of
13 proof required shall be a preponderance of the evidence, and
14 the burden of proof shall be on the State. If the court
15 determines that the seized property was subject to forfeiture,
16 an order of forfeiture and disposition of the seized property
17 shall be entered and the property shall be received by the
18 prosecuting office, who shall effect its destruction.

19 (i) If a seizure under subsection (g) is not followed by a
20 charge under subsection (a), (a-5), (a-5.1), (a-8), (b), or
21 (d) of this Section or under the Preventing Youth Vaping Act,
22 or if the prosecution of the charge is permanently terminated
23 or indefinitely discontinued without any judgment of
24 conviction or acquittal:

25 (1) the prosecuting office may commence in the circuit
26 court an in rem proceeding for the forfeiture and

1 destruction of any seized tobacco products or electronic
2 cigarettes; and

3 (2) any person having any property interest in the
4 seized tobacco products or electronic cigarettes may
5 commence separate civil proceedings in the manner provided
6 by law.

7 (j) After the Department of Revenue has seized any tobacco
8 product, nicotine product, or electronic cigarette as provided
9 in subsection (g) and a person having any property interest in
10 the seized property has not been charged with an offense under
11 this Section or a violation of the Preventing Youth Vaping
12 Act, the Department of Revenue must hold a hearing and
13 determine whether the seized tobacco products, alternative
14 nicotine products, or electronic cigarettes were part of the
15 inventory located at the place of business when a violation of
16 subsection (a), (a-5), (a-5.1), (a-8), (b), or (d) of this
17 Section or a violation of the Preventing Youth Vaping Act
18 occurred and whether any seized tobacco product, alternative
19 nicotine product, or electronic cigarette was of a type
20 involved in that violation. The Department of Revenue shall
21 give not less than 20 days' notice of the time and place of the
22 hearing to the owner of the property, if the owner is known,
23 and also to the person in whose possession the property was
24 found if that person is known and if the person in possession
25 is not the owner of the property. If neither the owner nor the
26 person in possession of the property is known, the Department

1 of Revenue must cause publication of the time and place of the
2 hearing to be made at least once each week for 3 weeks
3 successively in a newspaper of general circulation in the
4 county where the hearing is to be held.

5 If, as the result of the hearing, the Department of
6 Revenue determines that the tobacco products, alternative
7 nicotine products, or the electronic cigarettes were part of
8 the inventory located at the place of business when a
9 violation of subsection (a), (a-5), (a-5.1), (a-8), (b), or
10 (d) of this Section or a violation of the Preventing Youth
11 Vaping Act at the time of seizure, the Department of Revenue
12 must enter an order declaring the tobacco product, alternative
13 nicotine product, or electronic cigarette confiscated and
14 forfeited to the State, to be held by the Department of Revenue
15 for disposal by it as provided in Section 10-58 of the Tobacco
16 Products Tax Act of 1995. The Department of Revenue must give
17 notice of the order to the owner of the property, if the owner
18 is known, and also to the person in whose possession the
19 property was found if that person is known and if the person in
20 possession is not the owner of the property. If neither the
21 owner nor the person in possession of the property is known,
22 the Department of Revenue must cause publication of the order
23 to be made at least once each week for 3 weeks successively in
24 a newspaper of general circulation in the county where the
25 hearing was held.

26 (Source: P.A. 101-2, eff. 7-1-19.)

1 Section 45. The Prevention of Cigarette Sales to Persons
2 under 21 Years of Age Act is amended by changing Sections 1, 2,
3 5, 6, 7, 8, 10, and 20 as follows:

4 (720 ILCS 678/1)

5 Sec. 1. Short title. This Act may be cited as the
6 Prevention of Cigarette and Electronic Cigarette Sales to
7 Persons under 21 Years of Age Act.

8 (Source: P.A. 101-2, eff. 7-1-19.)

9 (720 ILCS 678/2)

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

11 "Cigarette", when used in this Act, means any roll for
12 smoking made wholly or in part of tobacco irrespective of size
13 or shape and whether or not the tobacco is flavored,
14 adulterated, or mixed with any other ingredient, and the
15 wrapper or cover of which is made of paper or any other
16 substance or material except whole leaf tobacco.

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

20 "Consumer" means an individual who acquires or seeks to
21 acquire cigarettes or electronic cigarettes for personal use.

22 "Delivery sale" means any sale of cigarettes or electronic
23 cigarettes to a consumer if:

1 (a) the consumer submits the order for such sale by
2 means of a telephone or other method of voice
3 transmission, the mails, or the Internet or other online
4 service, or the seller is otherwise not in the physical
5 presence of the buyer when the request for purchase or
6 order is made; or

7 (b) the cigarettes or electronic cigarettes are
8 delivered by use of a common carrier, private delivery
9 service, or the mails, or the seller is not in the physical
10 presence of the buyer when the buyer obtains possession of
11 the cigarettes or electronic cigarettes.

12 "Delivery service" means any person (other than a person
13 that makes a delivery sale) who delivers to the consumer the
14 cigarettes or electronic cigarettes sold in a delivery sale.

15 "Department" means the Department of Revenue.

16 "Electronic cigarette" means:

17 (1) any device that employs a battery or other
18 mechanism to heat a solution or substance to produce a
19 vapor or aerosol intended for inhalation;

20 (2) any cartridge or container of a solution or
21 substance intended to be used with or in the device or to
22 refill the device; or

23 (3) any solution or substance, whether or not it
24 contains nicotine, intended for use in the device.

25 "Electronic cigarette" includes, but is not limited to,
26 any electronic nicotine delivery system, electronic cigar,

1 electronic cigarillo, electronic pipe, electronic hookah, vape
2 pen, or similar product or device, and any component, part, or
3 accessory of a device used during the operation of the device,
4 even if the part or accessory was sold separately. "Electronic
5 cigarette" does not include: cigarettes, as defined in Section
6 1 of the Cigarette Tax Act; any product approved by the United
7 States Food and Drug Administration for sale as a tobacco
8 cessation product, a tobacco dependence product, or for other
9 medical purposes that is marketed and sold solely for that
10 approved purpose; any asthma inhaler prescribed by a physician
11 for that condition that is marketed and sold solely for that
12 approved purpose; any device that meets the definition of
13 cannabis paraphernalia under Section 1-10 of the Cannabis
14 Regulation and Tax Act; or any cannabis product sold by a
15 dispensing organization pursuant to the Cannabis Regulation
16 and Tax Act or the Compassionate Use of Medical Cannabis
17 Program Act.

18 "Government-issued identification" means a State driver's
19 license, State identification card, passport, a military
20 identification or an official naturalization or immigration
21 document, such as an alien registration recipient card
22 (commonly known as a "green card") or an immigrant visa.

23 "Mails" or "mailing" mean the shipment of cigarettes or
24 electronic cigarettes through the United States Postal
25 Service.

26 "Out-of-state sale" means a sale of cigarettes or

1 electronic cigarettes to a consumer located outside of this
2 State where the consumer submits the order for such sale by
3 means of a telephonic or other method of voice transmission,
4 the mails or any other delivery service, facsimile
5 transmission, or the Internet or other online service and
6 where the cigarettes or electronic cigarettes are delivered by
7 use of the mails or other delivery service.

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

11 "Shipping package" means a container in which packs or
12 cartons of cigarettes or electronic cigarettes are shipped in
13 connection with a delivery sale.

14 "Shipping documents" means bills of lading, air bills, or
15 any other documents used to evidence the undertaking by a
16 delivery service to deliver letters, packages, or other
17 containers.

18 (Source: P.A. 95-1053, eff. 1-1-10; 96-782, eff. 1-1-10.)

19 (720 ILCS 678/5)

20 Sec. 5. Unlawful shipment or transportation of cigarettes
21 or electronic cigarettes.

22 (a) It is unlawful for any person engaged in the business
23 of selling cigarettes or electronic cigarettes to ship or
24 cause to be shipped any cigarettes or electronic cigarettes
25 unless the person shipping the cigarettes or electronic

1 cigarettes:

2 (1) is licensed as a distributor or, in the case of
3 electronic cigarettes, a retailer, under ~~either~~ the
4 Cigarette Tax Act, ~~or~~ the Cigarette Use Tax Act, or the
5 Tobacco Products Tax Act of 1995; or delivers the
6 cigarettes or electronic cigarettes to a distributor, or
7 in the case of electronic cigarettes, a retailer, licensed
8 under ~~either~~ the Cigarette Tax Act, ~~or~~ the Cigarette Use
9 Tax Act, or the Tobacco Products Tax Act of 1995; or

10 (2) ships them to an export warehouse proprietor
11 pursuant to Chapter 52 of the Internal Revenue Code, or an
12 operator of a customs bonded warehouse pursuant to Section
13 1311 or 1555 of Title 19 of the United States Code.

14 For purposes of this subsection (a), a person is a
15 licensed distributor if the person's name appears on a list of
16 licensed distributors published by the Illinois Department of
17 Revenue. The term cigarette has the same meaning as defined in
18 Section 1 of the Cigarette Tax Act and Section 1 of the
19 Cigarette Use Tax Act. Nothing in this Act prohibits a person
20 licensed as a distributor under the Cigarette Tax Act, ~~or~~ the
21 Cigarette Use Tax Act, or the Tobacco Products Tax Act of 1995
22 from shipping or causing to be shipped any cigarettes or
23 electronic cigarettes to a registered retailer under the
24 Retailers' Occupation Tax Act provided the cigarette tax, ~~or~~
25 cigarette use tax, or tobacco product tax has been paid.

26 In this Section, "retailer" means a person who engages in

1 this State in the sale of or offering for sale of electronic
2 cigarettes for use or consumption and not for resale in any
3 form. "Retailer" includes a retailer as defined in Section 1
4 of the Cigarette Tax Act and Section 10-5 of the Tobacco
5 Products Tax Act of 1995.

6 (b) A common or contract carrier may transport cigarettes
7 or electronic cigarettes to any individual person in this
8 State only if the carrier reasonably believes such cigarettes
9 or electronic cigarettes have been received from a person
10 described in paragraph (a) (1). Common or contract carriers may
11 make deliveries of cigarettes or electronic cigarettes to
12 licensed distributors described in paragraph (a) (1) of this
13 Section. Nothing in this subsection (b) shall be construed to
14 prohibit a person other than a common or contract carrier from
15 transporting not more than 1,000 cigarettes at any one time to
16 any person in this State.

17 (c) A common or contract carrier may not complete the
18 delivery of any cigarettes or electronic cigarettes to persons
19 other than those described in paragraph (a) (1) of this Section
20 without first obtaining from the purchaser an official written
21 identification from any state or federal agency that displays
22 the person's date of birth or a birth certificate that
23 includes a reliable confirmation that the purchaser is at
24 least 21 years of age; that the cigarettes or electronic
25 cigarettes purchased are not intended for consumption by an
26 individual who is younger than 21 years of age; and a written

1 statement signed by the purchaser that certifies the
2 purchaser's address and that the purchaser is at least 21
3 years of age. The statement shall also confirm: (1) that the
4 purchaser understands that signing another person's name to
5 the certification is illegal; (2) that the sale of cigarettes
6 to individuals under 21 years of age is illegal; and (3) that
7 the purchase of cigarettes by individuals under 21 years of
8 age is illegal under the laws of Illinois.

9 (d) When a person engaged in the business of selling
10 cigarettes or electronic cigarettes ships or causes to be
11 shipped any cigarettes or electronic cigarettes to any person
12 in this State, other than in the cigarette or electronic
13 cigarette manufacturer's or tobacco products manufacturer's
14 original container or wrapping, the container or wrapping must
15 be plainly and visibly marked with the word "cigarettes" or
16 "electronic cigarettes".

17 (e) When a peace officer of this State or any duly
18 authorized officer or employee of the Illinois Department of
19 Public Health or Department of Revenue discovers any
20 cigarettes or electronic cigarettes which have been or which
21 are being shipped or transported in violation of this Section,
22 he or she shall seize and take possession of the cigarettes or
23 electronic cigarettes, and the cigarettes or electronic
24 cigarettes shall be subject to a forfeiture action pursuant to
25 the procedures provided under the Cigarette Tax Act, ~~or~~
26 Cigarette Use Tax Act, or Tobacco Products Tax Act of 1995.

1 (Source: P.A. 101-2, eff. 7-1-19.)

2 (720 ILCS 678/6)

3 Sec. 6. Prevention of delivery sales to persons under 21
4 years of age.

5 (a) No person shall make a delivery sale of cigarettes or
6 electronic cigarettes to any individual who is under 21 years
7 of age.

8 (b) Each person accepting a purchase order for a delivery
9 sale shall comply with the provisions of this Act and all other
10 laws of this State generally applicable to sales of cigarettes
11 or electronic cigarettes that occur entirely within this
12 State.

13 (Source: P.A. 101-2, eff. 7-1-19.)

14 (720 ILCS 678/7)

15 Sec. 7. Age verification and shipping requirements to
16 prevent delivery sales to persons under 21 years of age.

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

20 (1) prior to the first delivery sale to the
21 prospective consumer, obtains from the prospective
22 consumer a written certification which includes a
23 statement signed by the prospective consumer that
24 certifies:

1 (A) the prospective consumer's current address;
2 and

3 (B) that the prospective consumer is at least the
4 legal minimum age;

5 (2) informs, in writing, such prospective consumer
6 that:

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

9 (B) sales of cigarettes or electronic cigarettes
10 to individuals under 21 years of age are illegal;

11 (C) the purchase of cigarettes or electronic
12 cigarettes by individuals under 21 years of age is
13 illegal; and

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

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

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

24 (B) obtaining a photocopy or other image of a
25 valid, government-issued identification stating the
26 date of birth or age of the prospective consumer;

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

3 (5) receives payment for the delivery sale from the
4 prospective consumer by a credit or debit card that has
5 been issued in such consumer's name, or by a check or other
6 written instrument in such consumer's name; however, no
7 money order or cash payment shall be received or permitted
8 and the seller shall submit to each credit card acquiring
9 company with which it has credit card sales identification
10 information in an appropriate form and format so that the
11 words "tobacco product" may be printed in the purchaser's
12 credit card statement when a purchase of a cigarette or
13 electronic cigarette is made by credit card payment; and

14 (6) ensures that the shipping package is delivered to
15 the same address as is shown on the government-issued
16 identification or contained in the commercially available
17 database. No delivery described under this Section shall
18 be permitted to any post office box.

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

20 (1) a statement that cigarette and electronic
21 cigarette sales to consumers below 21 years of age are
22 illegal;

23 (2) a statement that sales of cigarettes and
24 electronic cigarettes are restricted to those consumers
25 who provide verifiable proof of age in accordance with
26 subsection (a);

1 (3) a statement that cigarette or electronic cigarette
2 sales are subject to tax under Section 2 of the Cigarette
3 Tax Act ~~(35 ILCS 130/2)~~, Section 2 of the Cigarette Use Tax
4 Act, ~~and~~ Section 3 of the Use Tax Act, and Section 10-10 of
5 the Tobacco Products Tax Act of 1995 and an explanation of
6 how the correct tax has been, or is to be, paid with
7 respect to such delivery sale.

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

9 (1) the statement is clear and conspicuous;

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

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

13 (4) the statement is printed with a degree of color
14 contrast between the background and the printed statement
15 that is no less than the color contrast between the
16 background and the largest text used in the communication;
17 and

18 (5) for any printed material delivered by electronic
19 means, the statement appears at both the top and the
20 bottom of the electronic mail message or both the top and
21 the bottom of the Internet website homepage.

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

25 (1) include as part of the shipping documents a clear
26 and conspicuous statement stating: "Cigarettes or

1 Electronic Cigarettes: Illinois Law Prohibits Shipping to
2 Individuals Under 21 and Requires the Payment of All
3 Applicable Taxes";

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

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

9 (Source: P.A. 101-2, eff. 7-1-19; revised 4-29-19.)

10 (720 ILCS 678/8)

11 Sec. 8. Registration and reporting requirements to prevent
12 delivery sales to persons under 21 years of age.

13 (a) Not later than the 15th day of each month, each person
14 making a delivery sale during the previous calendar month
15 shall file a report with the Department containing the
16 following information:

17 (1) the seller's name, trade name, and the address of
18 such person's principal place of business and any other
19 place of business;

20 (2) the name and address of the consumer to whom such
21 delivery sale was made;

22 (3) the brand style or brand styles of the cigarettes
23 or electronic cigarettes that were sold in such delivery
24 sale;

25 (4) the quantity of cigarettes that were sold in such

1 delivery sale;

2 (5) an indication of whether or not the cigarettes or
3 electronic cigarettes sold in the delivery sale bore a tax
4 stamp evidencing payment of the tax under Section 2 of the
5 Cigarette Tax Act ~~(35 ILCS 130/2)~~; and

6 (6) such other information the Department may require.

7 (b) Each person engaged in business within this State who
8 makes an out-of-state sale shall, for each individual sale,
9 submit to the appropriate tax official of the state in which
10 the consumer is located the information required in subsection
11 (a).

12 (c) Any person that satisfies the requirements of 15
13 U.S.C. Section 376 shall be deemed to satisfy the requirements
14 of subsections (a) and (b).

15 (d) The Department is authorized to disclose to the
16 Attorney General any information received under this title and
17 requested by the Attorney General. The Department and the
18 Attorney General shall share with each other the information
19 received under this title and may share the information with
20 other federal, State, or local agencies for purposes of
21 enforcement of this title or the laws of the federal
22 government or of other states.

23 (e) This Section shall not be construed to impose
24 liability upon any delivery service, or officers or employees
25 thereof, when acting within the scope of business of the
26 delivery service.

1 (f) The Department may establish procedures requiring
2 electronic transmission of the information required by this
3 Section directly to the Department on forms prescribed and
4 furnished by the Department.

5 (Source: P.A. 101-2, eff. 7-1-19.)

6 (720 ILCS 678/10)

7 Sec. 10. Violation.

8 (a) A person who violates subsection (a), (b), or (c) of
9 Section 5 or Section 6, 7, 8, or 9 is guilty of a Class A
10 misdemeanor. A second or subsequent violation of subsection
11 (a), (b), or (c) of Section 5 or Section 6, 7, 8, or 9 is a
12 Class 4 felony.

13 (b) The Department of Revenue shall impose a civil penalty
14 not to exceed \$5,000 on any person who violates subsection
15 (a), (b), or (c) of Section 5 or Section 6, 7, 8, or 9. The
16 Department of Revenue shall impose a civil penalty not to
17 exceed \$5,000 on any person engaged in the business of selling
18 cigarettes or electronic cigarettes who ships or causes to be
19 shipped any such cigarettes or electronic cigarettes to any
20 person in this State in violation of subsection (d) of Section
21 5. Civil penalties imposed and collected by the Department
22 shall be deposited into the Tax Compliance and Administration
23 Fund.

24 (c) All cigarettes or electronic cigarettes sold or
25 attempted to be sold in a delivery sale that does not meet the

1 requirements of this Act shall be forfeited to the State. All
2 cigarettes or electronic cigarettes forfeited to this State
3 under this Act shall be destroyed or maintained and used in an
4 undercover capacity. The Department may, prior to any
5 destruction of cigarettes or electronic cigarettes, permit the
6 true holder of the trademark rights in the cigarette or
7 electronic cigarette brand to inspect such contraband
8 cigarettes or electronic cigarettes, in order to assist the
9 Department in any investigation regarding such cigarettes or
10 electronic cigarettes.

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

19 (e) The penalties provided for in this Section are in
20 addition to any other penalties provided for by law.

21 (Source: P.A. 95-1053, eff. 1-1-10; 96-782, eff. 1-1-10.)

22 (720 ILCS 678/20)

23 Sec. 20. Tip line.

24 (a) Not later than 120 days after January 1, 2010 (the
25 effective date of Public Act 95-1053 ~~this amendatory Act of~~

1 ~~the 95th General Assembly~~, the Department shall establish,
2 publicize, and maintain a toll-free telephone number to
3 receive information related to the sale and delivery of
4 contraband cigarettes or electronic cigarettes.

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

10 (Source: P.A. 95-1053, eff. 1-1-10.)

11 Section 97. Severability. If any provision of this Act or
12 its application to any person or circumstance is held invalid,
13 the invalidity of that provision or application does not
14 affect other provisions or applications of this Act that can
15 be given effect without the invalid provision or application.