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LRB093 16177 RLC 48340 a

1 AMENDMENT TO HOUSE BILL 4067

2 AMENDMENT NO. _____. Amend House Bill 4067 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Sections 5-615 and 5-710 as follows:

6 (705 ILCS 405/5-615)

7 Sec. 5-615. Continuance under supervision.

8 (1) The court may enter an order of continuance under
9 supervision for an offense other than first degree murder, a
10 Class X felony or a forcible felony (a) upon an admission or
11 stipulation by the appropriate respondent or minor respondent
12 of the facts supporting the petition and before proceeding to
13 adjudication, or after hearing the evidence at the trial, and
14 (b) in the absence of objection made in open court by the
15 minor, his or her parent, guardian, or legal custodian, the
16 minor's attorney or the State's Attorney.

17 (2) If the minor, his or her parent, guardian, or legal
18 custodian, the minor's attorney or State's Attorney objects in
19 open court to any continuance and insists upon proceeding to
20 findings and adjudication, the court shall so proceed.

21 (3) Nothing in this Section limits the power of the court
22 to order a continuance of the hearing for the production of
23 additional evidence or for any other proper reason.

24 (4) When a hearing where a minor is alleged to be a

1 delinquent is continued pursuant to this Section, the period of
2 continuance under supervision may not exceed 24 months. The
3 court may terminate a continuance under supervision at any time
4 if warranted by the conduct of the minor and the ends of
5 justice.

6 (5) When a hearing where a minor is alleged to be
7 delinquent is continued pursuant to this Section, the court
8 may, as conditions of the continuance under supervision,
9 require the minor to do any of the following:

10 (a) not violate any criminal statute of any
11 jurisdiction;

12 (b) make a report to and appear in person before any
13 person or agency as directed by the court;

14 (c) work or pursue a course of study or vocational
15 training;

16 (d) undergo medical or psychotherapeutic treatment
17 rendered by a therapist licensed under the provisions of
18 the Medical Practice Act of 1987, the Clinical Psychologist
19 Licensing Act, or the Clinical Social Work and Social Work
20 Practice Act, or an entity licensed by the Department of
21 Human Services as a successor to the Department of
22 Alcoholism and Substance Abuse, for the provision of drug
23 addiction and alcoholism treatment;

24 (e) attend or reside in a facility established for the
25 instruction or residence of persons on probation;

26 (f) support his or her dependents, if any;

27 (g) pay costs;

28 (h) refrain from possessing a firearm or other
29 dangerous weapon, or an automobile;

30 (i) permit the probation officer to visit him or her at
31 his or her home or elsewhere;

32 (j) reside with his or her parents or in a foster home;

33 (k) attend school;

34 (k-5) with the consent of the superintendent of the

1 facility, attend an educational program at a facility other
2 than the school in which the offense was committed if he or
3 she committed a crime of violence as defined in Section 2
4 of the Crime Victims Compensation Act in a school, on the
5 real property comprising a school, or within 1,000 feet of
6 the real property comprising a school;

7 (l) attend a non-residential program for youth;

8 (m) contribute to his or her own support at home or in
9 a foster home;

10 (n) perform some reasonable public or community
11 service;

12 (o) make restitution to the victim, in the same manner
13 and under the same conditions as provided in subsection (4)
14 of Section 5-710, except that the "sentencing hearing"
15 referred to in that Section shall be the adjudicatory
16 hearing for purposes of this Section;

17 (p) comply with curfew requirements as designated by
18 the court;

19 (q) refrain from entering into a designated geographic
20 area except upon terms as the court finds appropriate. The
21 terms may include consideration of the purpose of the
22 entry, the time of day, other persons accompanying the
23 minor, and advance approval by a probation officer;

24 (r) refrain from having any contact, directly or
25 indirectly, with certain specified persons or particular
26 types of persons, including but not limited to members of
27 street gangs and drug users or dealers;

28 (r-5) undergo a medical or other procedure to have a
29 tattoo symbolizing allegiance to a street gang removed from
30 his or her body;

31 (s) refrain from having in his or her body the presence
32 of any illicit drug prohibited by the Cannabis Control Act
33 or the Illinois Controlled Substances Act, unless
34 prescribed by a physician, and submit samples of his or her

1 blood or urine or both for tests to determine the presence
2 of any illicit drug; or

3 (t) comply with any other conditions as may be ordered
4 by the court.

5 (6) A minor whose case is continued under supervision under
6 subsection (5) shall be given a certificate setting forth the
7 conditions imposed by the court. Those conditions may be
8 reduced, enlarged, or modified by the court on motion of the
9 probation officer or on its own motion, or that of the State's
10 Attorney, or, at the request of the minor after notice and
11 hearing.

12 (7) If a petition is filed charging a violation of a
13 condition of the continuance under supervision, the court shall
14 conduct a hearing. If the court finds that a condition of
15 supervision has not been fulfilled, the court may proceed to
16 findings and adjudication and disposition. The filing of a
17 petition for violation of a condition of the continuance under
18 supervision shall toll the period of continuance under
19 supervision until the final determination of the charge, and
20 the term of the continuance under supervision shall not run
21 until the hearing and disposition of the petition for
22 violation; provided where the petition alleges conduct that
23 does not constitute a criminal offense, the hearing must be
24 held within 30 days of the filing of the petition unless a
25 delay shall continue the tolling of the period of continuance
26 under supervision for the period of the delay.

27 (8) When a hearing in which a minor is alleged to be a
28 delinquent for reasons that include a violation of Section
29 21-1.3 of the Criminal Code of 1961 is continued under this
30 Section, the court shall, as a condition of the continuance
31 under supervision, require the minor to perform community
32 service for not less than 30 and not more than 120 hours, if
33 community service is available in the jurisdiction. The
34 community service shall include, but need not be limited to,

1 the cleanup and repair of the damage that was caused by the
2 alleged violation or similar damage to property located in the
3 municipality or county in which the alleged violation occurred.
4 The condition may be in addition to any other condition.

5 (8.5) When a hearing in which a minor is alleged to be a
6 delinquent for reasons that include a violation of Section 3.02
7 or Section 3.03 of the Humane Care for Animals Act or paragraph
8 (d) of subsection (1) of Section 21-1 of the Criminal Code of
9 1961 is continued under this Section, the court shall, as a
10 condition of the continuance under supervision, require the
11 minor to undergo medical or psychiatric treatment rendered by a
12 psychiatrist or psychological treatment rendered by a clinical
13 psychologist. The condition may be in addition to any other
14 condition.

15 (9) When a hearing in which a minor is alleged to be a
16 delinquent is continued under this Section, the court, before
17 continuing the case, shall make a finding whether the offense
18 alleged to have been committed either: (i) was related to or in
19 furtherance of the activities of an organized gang or was
20 motivated by the minor's membership in or allegiance to an
21 organized gang, or (ii) is a violation of paragraph (13) of
22 subsection (a) of Section 12-2 of the Criminal Code of 1961, a
23 violation of any Section of Article 24 of the Criminal Code of
24 1961, or a violation of any statute that involved the unlawful
25 use of a firearm. If the court determines the question in the
26 affirmative the court shall, as a condition of the continuance
27 under supervision and as part of or in addition to any other
28 condition of the supervision, require the minor to perform
29 community service for not less than 30 hours, provided that
30 community service is available in the jurisdiction and is
31 funded and approved by the county board of the county where the
32 offense was committed. The community service shall include, but
33 need not be limited to, the cleanup and repair of any damage
34 caused by an alleged violation of Section 21-1.3 of the

1 Criminal Code of 1961 and similar damage to property located in
2 the municipality or county in which the alleged violation
3 occurred. When possible and reasonable, the community service
4 shall be performed in the minor's neighborhood. For the
5 purposes of this Section, "organized gang" has the meaning
6 ascribed to it in Section 10 of the Illinois Streetgang
7 Terrorism Omnibus Prevention Act.

8 (10) The court shall impose upon a minor placed on
9 supervision, as a condition of the supervision, a fee of \$25
10 for each month of supervision ordered by the court, unless
11 after determining the inability of the minor placed on
12 supervision to pay the fee, the court assesses a lesser amount.
13 The court may not impose the fee on a minor who is made a ward
14 of the State under this Act while the minor is in placement.
15 The fee shall be imposed only upon a minor who is actively
16 supervised by the probation and court services department. A
17 court may order the parent, guardian, or legal custodian of the
18 minor to pay some or all of the fee on the minor's behalf.

19 (11) If a minor is placed on supervision for a violation of
20 subsection (a-5) of Section 1 of the Prevention of Tobacco Use
21 by Minors Act, the court may, in its discretion, and upon
22 recommendation by the State's Attorney, order that minor and
23 his or her parents or legal guardian to attend a smoker's
24 education or youth diversion program as defined in that Act if
25 that program is available in the jurisdiction where the
26 offender resides. Attendance at a smoker's education or youth
27 diversion program shall be time-credited against any community
28 service time imposed for any first violation of subsection
29 (a-5) of Section 1 of that Act. In addition to any other
30 penalty that the court may impose for a violation of subsection
31 (a-5) of Section 1 of that Act, the court, upon request by the
32 State's Attorney, may, in its discretion, require the offender
33 to remit a fee for his or her attendance at a smoker's
34 education or youth diversion program.

1 For purposes of this Section, "smoker's education program"
2 or "youth diversion program" includes, but is not limited to, a
3 seminar designed to educate a person on the physical and
4 psychological effects of smoking tobacco products and the
5 health consequences of smoking tobacco products that can be
6 conducted with a locality's youth diversion program.

7 In addition to any other penalty that the court may impose
8 under this subsection (11):

9 (a) If a minor violates subsection (a-5) of Section 1 of
10 the Prevention of Tobacco Use by Minors Act, the court may
11 impose a sentence of 15 hours of community service or a fine of
12 \$25 for a first violation.

13 (b) A second violation by a minor of subsection (a-5) of
14 Section 1 of that Act that occurs within 12 months after the
15 first violation is punishable by a fine of \$50 and 25 hours of
16 community service.

17 (c) A third or subsequent violation by a minor of
18 subsection (a-5) of Section 1 of that Act that occurs within 12
19 months after the first violation is punishable by a \$100 fine
20 and 30 hours of community service.

21 (d) Any second or subsequent violation not within the
22 12-month time period after the first violation is punishable as
23 provided for a first violation.

24 (Source: P.A. 91-98; eff. 1-1-00; 91-332, eff. 7-29-99; 92-16,
25 eff. 6-28-01; 92-282, eff. 8-7-01; 92-454, eff. 1-1-02; 92-651,
26 eff. 7-11-02.)

27 (705 ILCS 405/5-710)

28 Sec. 5-710. Kinds of sentencing orders.

29 (1) The following kinds of sentencing orders may be made in
30 respect of wards of the court:

31 (a) Except as provided in Sections 5-805, 5-810, 5-815,
32 a minor who is found guilty under Section 5-620 may be:

33 (i) put on probation or conditional discharge and

1 released to his or her parents, guardian or legal
2 custodian, provided, however, that any such minor who
3 is not committed to the Department of Corrections,
4 Juvenile Division under this subsection and who is
5 found to be a delinquent for an offense which is first
6 degree murder, a Class X felony, or a forcible felony
7 shall be placed on probation;

8 (ii) placed in accordance with Section 5-740, with
9 or without also being put on probation or conditional
10 discharge;

11 (iii) required to undergo a substance abuse
12 assessment conducted by a licensed provider and
13 participate in the indicated clinical level of care;

14 (iv) placed in the guardianship of the Department
15 of Children and Family Services, but only if the
16 delinquent minor is under 13 years of age;

17 (v) placed in detention for a period not to exceed
18 30 days, either as the exclusive order of disposition
19 or, where appropriate, in conjunction with any other
20 order of disposition issued under this paragraph,
21 provided that any such detention shall be in a juvenile
22 detention home and the minor so detained shall be 10
23 years of age or older. However, the 30-day limitation
24 may be extended by further order of the court for a
25 minor under age 13 committed to the Department of
26 Children and Family Services if the court finds that
27 the minor is a danger to himself or others. The minor
28 shall be given credit on the sentencing order of
29 detention for time spent in detention under Sections
30 5-501, 5-601, 5-710, or 5-720 of this Article as a
31 result of the offense for which the sentencing order
32 was imposed. The court may grant credit on a sentencing
33 order of detention entered under a violation of
34 probation or violation of conditional discharge under

1 Section 5-720 of this Article for time spent in
2 detention before the filing of the petition alleging
3 the violation. A minor shall not be deprived of credit
4 for time spent in detention before the filing of a
5 violation of probation or conditional discharge
6 alleging the same or related act or acts;

7 (vi) ordered partially or completely emancipated
8 in accordance with the provisions of the Emancipation
9 of ~~Mature~~ Minors Act;

10 (vii) subject to having his or her driver's license
11 or driving privileges suspended for such time as
12 determined by the court but only until he or she
13 attains 18 years of age;

14 (viii) put on probation or conditional discharge
15 and placed in detention under Section 3-6039 of the
16 Counties Code for a period not to exceed the period of
17 incarceration permitted by law for adults found guilty
18 of the same offense or offenses for which the minor was
19 adjudicated delinquent, and in any event no longer than
20 upon attainment of age 21; this subdivision (viii)
21 notwithstanding any contrary provision of the law; or

22 (ix) ordered to undergo a medical or other
23 procedure to have a tattoo symbolizing allegiance to a
24 street gang removed from his or her body.

25 (b) A minor found to be guilty may be committed to the
26 Department of Corrections, Juvenile Division, under
27 Section 5-750 if the minor is 13 years of age or older,
28 provided that the commitment to the Department of
29 Corrections, Juvenile Division, shall be made only if a
30 term of incarceration is permitted by law for adults found
31 guilty of the offense for which the minor was adjudicated
32 delinquent. The time during which a minor is in custody
33 before being released upon the request of a parent,
34 guardian or legal custodian shall be considered as time

1 spent in detention.

2 (c) When a minor is found to be guilty for an offense
3 which is a violation of the Illinois Controlled Substances
4 Act or the Cannabis Control Act and made a ward of the
5 court, the court may enter a disposition order requiring
6 the minor to undergo assessment, counseling or treatment in
7 a substance abuse program approved by the Department of
8 Human Services.

9 (2) Any sentencing order other than commitment to the
10 Department of Corrections, Juvenile Division, may provide for
11 protective supervision under Section 5-725 and may include an
12 order of protection under Section 5-730.

13 (3) Unless the sentencing order expressly so provides, it
14 does not operate to close proceedings on the pending petition,
15 but is subject to modification until final closing and
16 discharge of the proceedings under Section 5-750.

17 (4) In addition to any other sentence, the court may order
18 any minor found to be delinquent to make restitution, in
19 monetary or non-monetary form, under the terms and conditions
20 of Section 5-5-6 of the Unified Code of Corrections, except
21 that the "presentencing hearing" referred to in that Section
22 shall be the sentencing hearing for purposes of this Section.
23 The parent, guardian or legal custodian of the minor may be
24 ordered by the court to pay some or all of the restitution on
25 the minor's behalf, pursuant to the Parental Responsibility
26 Law. The State's Attorney is authorized to act on behalf of any
27 victim in seeking restitution in proceedings under this
28 Section, up to the maximum amount allowed in Section 5 of the
29 Parental Responsibility Law.

30 (5) Any sentencing order where the minor is committed or
31 placed in accordance with Section 5-740 shall provide for the
32 parents or guardian of the estate of the minor to pay to the
33 legal custodian or guardian of the person of the minor such
34 sums as are determined by the custodian or guardian of the

1 person of the minor as necessary for the minor's needs. The
2 payments may not exceed the maximum amounts provided for by
3 Section 9.1 of the Children and Family Services Act.

4 (6) Whenever the sentencing order requires the minor to
5 attend school or participate in a program of training, the
6 truant officer or designated school official shall regularly
7 report to the court if the minor is a chronic or habitual
8 truant under Section 26-2a of the School Code.

9 (7) In no event shall a guilty minor be committed to the
10 Department of Corrections, Juvenile Division for a period of
11 time in excess of that period for which an adult could be
12 committed for the same act.

13 (8) A minor found to be guilty for reasons that include a
14 violation of Section 21-1.3 of the Criminal Code of 1961 shall
15 be ordered to perform community service for not less than 30
16 and not more than 120 hours, if community service is available
17 in the jurisdiction. The community service shall include, but
18 need not be limited to, the cleanup and repair of the damage
19 that was caused by the violation or similar damage to property
20 located in the municipality or county in which the violation
21 occurred. The order may be in addition to any other order
22 authorized by this Section.

23 (8.5) A minor found to be guilty for reasons that include a
24 violation of Section 3.02 or Section 3.03 of the Humane Care
25 for Animals Act or paragraph (d) of subsection (1) of Section
26 21-1 of the Criminal Code of 1961 shall be ordered to undergo
27 medical or psychiatric treatment rendered by a psychiatrist or
28 psychological treatment rendered by a clinical psychologist.
29 The order may be in addition to any other order authorized by
30 this Section.

31 (9) In addition to any other sentencing order, the court
32 shall order any minor found to be guilty for an act which would
33 constitute, predatory criminal sexual assault of a child,
34 aggravated criminal sexual assault, criminal sexual assault,

1 aggravated criminal sexual abuse, or criminal sexual abuse if
2 committed by an adult to undergo medical testing to determine
3 whether the defendant has any sexually transmissible disease
4 including a test for infection with human immunodeficiency
5 virus (HIV) or any other identified causative agency of
6 acquired immunodeficiency syndrome (AIDS). Any medical test
7 shall be performed only by appropriately licensed medical
8 practitioners and may include an analysis of any bodily fluids
9 as well as an examination of the minor's person. Except as
10 otherwise provided by law, the results of the test shall be
11 kept strictly confidential by all medical personnel involved in
12 the testing and must be personally delivered in a sealed
13 envelope to the judge of the court in which the sentencing
14 order was entered for the judge's inspection in camera. Acting
15 in accordance with the best interests of the victim and the
16 public, the judge shall have the discretion to determine to
17 whom the results of the testing may be revealed. The court
18 shall notify the minor of the results of the test for infection
19 with the human immunodeficiency virus (HIV). The court shall
20 also notify the victim if requested by the victim, and if the
21 victim is under the age of 15 and if requested by the victim's
22 parents or legal guardian, the court shall notify the victim's
23 parents or the legal guardian, of the results of the test for
24 infection with the human immunodeficiency virus (HIV). The
25 court shall provide information on the availability of HIV
26 testing and counseling at the Department of Public Health
27 facilities to all parties to whom the results of the testing
28 are revealed. The court shall order that the cost of any test
29 shall be paid by the county and may be taxed as costs against
30 the minor.

31 (10) When a court finds a minor to be guilty the court
32 shall, before entering a sentencing order under this Section,
33 make a finding whether the offense committed either: (a) was
34 related to or in furtherance of the criminal activities of an

1 organized gang or was motivated by the minor's membership in or
2 allegiance to an organized gang, or (b) involved a violation of
3 subsection (a) of Section 12-7.1 of the Criminal Code of 1961,
4 a violation of any Section of Article 24 of the Criminal Code
5 of 1961, or a violation of any statute that involved the
6 wrongful use of a firearm. If the court determines the question
7 in the affirmative, and the court does not commit the minor to
8 the Department of Corrections, Juvenile Division, the court
9 shall order the minor to perform community service for not less
10 than 30 hours nor more than 120 hours, provided that community
11 service is available in the jurisdiction and is funded and
12 approved by the county board of the county where the offense
13 was committed. The community service shall include, but need
14 not be limited to, the cleanup and repair of any damage caused
15 by a violation of Section 21-1.3 of the Criminal Code of 1961
16 and similar damage to property located in the municipality or
17 county in which the violation occurred. When possible and
18 reasonable, the community service shall be performed in the
19 minor's neighborhood. This order shall be in addition to any
20 other order authorized by this Section except for an order to
21 place the minor in the custody of the Department of
22 Corrections, Juvenile Division. For the purposes of this
23 Section, "organized gang" has the meaning ascribed to it in
24 Section 10 of the Illinois Streetgang Terrorism Omnibus
25 Prevention Act.

26 (11) If a minor is found to be guilty of a violation of
27 subsection (a-5) of Section 1 of the Prevention of Tobacco Use
28 by Minors Act, the court may, in its discretion, and upon
29 recommendation by the State's Attorney, order that minor and
30 his or her parents or legal guardian to attend a smoker's
31 education or youth diversion program as defined in that Act if
32 that program is available in the jurisdiction where the
33 offender resides. Attendance at a smoker's education or youth
34 diversion program shall be time-credited against any community

1 service time imposed for any first violation of subsection
2 (a-5) of Section 1 of that Act. In addition to any other
3 penalty that the court may impose for a violation of subsection
4 (a-5) of Section 1 of that Act, the court, upon request by the
5 State's Attorney, may, in its discretion, require the offender
6 to remit a fee for his or her attendance at a smoker's
7 education or youth diversion program.

8 For purposes of this Section, "smoker's education program"
9 or "youth diversion program" includes, but is not limited to, a
10 seminar designed to educate a person on the physical and
11 psychological effects of smoking tobacco products and the
12 health consequences of smoking tobacco products that can be
13 conducted with a locality's youth diversion program.

14 In addition to any other penalty that the court may impose
15 under this subsection (11):

16 (a) If a minor violates subsection (a-5) of Section 1 of
17 the Prevention of Tobacco Use by Minors Act, the court may
18 impose a sentence of 15 hours of community service or a fine of
19 \$25 for a first violation.

20 (b) A second violation by a minor of subsection (a-5) of
21 Section 1 of that Act that occurs within 12 months after the
22 first violation is punishable by a fine of \$50 and 25 hours of
23 community service.

24 (c) A third or subsequent violation by a minor of
25 subsection (a-5) of Section 1 of that Act that occurs within 12
26 months after the first violation is punishable by a \$100 fine
27 and 30 hours of community service.

28 (d) Any second or subsequent violation not within the
29 12-month time period after the first violation is punishable as
30 provided for a first violation.

31 (Source: P.A. 91-98, eff. 1-1-00; 92-454, eff. 1-1-02; revised
32 10-9-03.)

33 Section 10. The Sale of Tobacco to Minors Act is amended by

1 changing the title of the Act and Sections 0.01, 1, and 2 as
2 follows:

3
4 (720 ILCS 675/Act title)

5 An Act to prohibit minors from buying, ~~or~~ selling, or
6 possessing tobacco in any of its forms, to prohibit selling,
7 giving or furnishing tobacco, in any of its forms, to minors,
8 and providing penalties therefor.

9 (720 ILCS 675/0.01) (from Ch. 23, par. 2356.9)

10 Sec. 0.01. Short title. This Act may be cited as the
11 Prevention of Tobacco Use by ~~Sale of Tobacco to~~ Minors Act.

12 (Source: P.A. 86-1324.)

13 (720 ILCS 675/1) (from Ch. 23, par. 2357)

14 Sec. 1. Prohibition on sale to and possession of tobacco
15 by ~~to~~ minors; vending machines; lunch wagons.

16 (a) No minor under 18 years of age shall buy any cigar,
17 cigarette, smokeless tobacco or tobacco in any of its forms. No
18 person shall sell, buy for, distribute samples of or furnish
19 any cigar, cigarette, smokeless tobacco or tobacco in any of
20 its forms, to any minor under 18 years of age.

21 (a-5) No minor under 18 years of age shall possess any
22 cigar, cigarette, smokeless tobacco, or tobacco in any of its
23 forms.

24 For the purpose of this Section, "smokeless tobacco" means
25 any tobacco products that are suitable for dipping or chewing.

26 (b) Tobacco products listed in this Section ~~above~~ may be
27 sold through a vending machine only in the following locations:

28 (1) Factories, businesses, offices, private clubs, and
29 other places not open to the general public.

30 (2) Places to which minors under 18 years of age are
31 not permitted access.

1 (3) Places where alcoholic beverages are sold and
2 consumed on the premises.

3 (4) Places where the vending machine is under the
4 direct supervision of the owner of the establishment or an
5 employee over 18 years of age. The sale of tobacco products
6 from a vending machine under direct supervision of the
7 owner or an employee of the establishment is considered a
8 sale of tobacco products by that person. As used in this
9 subdivision, "direct supervision" means that the owner or
10 employee has an unimpeded line of sight to the vending
11 machine.

12 (5) Places where the vending machine can only be
13 operated by the owner or an employee over age 18 either
14 directly or through a remote control device if the device
15 is inaccessible to all customers.

16 (c) The sale or distribution at no charge of cigarettes
17 from a lunch wagon engaging in any sales activity within 1,000
18 feet of any public or private elementary or secondary school
19 grounds is prohibited.

20 For the purpose of this Section, "lunch wagon" means a
21 mobile vehicle designed and constructed to transport food and
22 from which food is sold to the general public.

23 (d) It is not a violation of this Act for a person under 18
24 years of age to purchase or possess a cigar, cigarette,
25 smokeless tobacco or tobacco in any of its forms if the person
26 under the age of 18 years purchases or is given the cigar,
27 cigarette, smokeless tobacco or tobacco in any of its forms
28 from a retail seller of tobacco products or an employee of the
29 retail seller pursuant to a plan or action to investigate,
30 patrol, or otherwise conduct a "sting operation" or enforcement
31 action against a retail seller of tobacco products or a person
32 employed by the retail seller of tobacco products or on any
33 premises authorized to sell tobacco products to determine if
34 tobacco products are being sold or given to persons under 18

1 years of age if the "sting operation" or enforcement action is
2 approved by the Department of State Police, the county sheriff,
3 a municipal police department, the Department of Public Health,
4 or a local health department.

5 (Source: P.A. 93-284, eff. 1-1-04.)

6 (720 ILCS 675/2) (from Ch. 23, par. 2358)

7 Sec. 2. (a) Any person who violates subsection (a) of
8 Section 1 ~~any provision~~ of this Act is guilty of a petty
9 offense and for the first offense shall be fined \$200, \$400 for
10 the second offense in a 12-month period, and \$600 for the third
11 or any subsequent offense in a 12-month period.

12 (b) If a minor violates subsection (a-5) of Section 1, the
13 court may impose a sentence of 15 hours of community service or
14 a fine of \$25 for a first violation.

15 (c) A second violation by a minor of subsection (a-5) of
16 Section 1 that occurs within 12 months after the first
17 violation is punishable by a fine of \$50 and 25 hours of
18 community service.

19 (d) A third or subsequent violation by a minor of
20 subsection (a-5) of Section 1 that occurs within 12 months
21 after the first violation is punishable by a \$100 fine and 30
22 hours of community service.

23 (e) Any second or subsequent violation not within the
24 12-month time period after the first violation is punishable as
25 provided for a first violation.

26 (f) If a minor is convicted of or placed on supervision for
27 a violation of subsection (a-5) of Section 1, the court may, in
28 its discretion, and upon recommendation by the State's
29 Attorney, order that minor and his or her parents or legal
30 guardian to attend a smoker's education or youth diversion
31 program if that program is available in the jurisdiction where
32 the offender resides. Attendance at a smoker's education or
33 youth diversion program shall be time-credited against any

1 community service time imposed for any first violation of
2 subsection (a-5) of Section 1. In addition to any other penalty
3 that the court may impose for a violation of subsection (a-5)
4 of Section 1, the court, upon request by the State's Attorney,
5 may, in its discretion, require the offender to remit a fee for
6 his or her attendance at a smoker's education or youth
7 diversion program.

8 (g) For purposes of this Section, "smoker's education
9 program" or "youth diversion program" includes, but is not
10 limited to, a seminar designed to educate a person on the
11 physical and psychological effects of smoking tobacco products
12 and the health consequences of smoking tobacco products that
13 can be conducted with a locality's youth diversion program.

14 (h) All moneys collected as fines for violations of
15 subsection (a) of Section 1 shall be distributed in the
16 following manner:

17 (1) one-half of each fine shall be distributed to the
18 unit of local government or other entity that successfully
19 prosecuted the offender; and

20 (2) one-half shall be remitted to the State to be used
21 for enforcing this Act. ~~One-half of each fine collected~~
22 ~~under this Section shall be distributed to the unit of~~
23 ~~local government or other entity that successfully~~
24 ~~prosecuted the offender and one-half shall be remitted to~~
25 ~~the State to be used for enforcing this Act.~~

26 (Source: P.A. 88-418.)

27 Section 99. Effective date. This Act takes effect upon
28 becoming law."