



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0747

Introduced 2/1/2005, by Rep. Ronald A. Wait

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-615	
705 ILCS 405/5-710	
720 ILCS 675/Act title	
720 ILCS 675/0.01	from Ch. 23, par. 2356.9
720 ILCS 675/1	from Ch. 23, par. 2357
720 ILCS 675/2	from Ch. 23, par. 2358

Amends the Juvenile Court Act of 1987. Provides that, if a minor violates the provisions prohibiting minors from possessing any cigars, cigarettes, smokeless tobacco, or tobacco in any of its forms, the court may in its discretion, and upon recommendation by the State's Attorney, order the minor and his or her parents or legal guardian to attend a smoker's education or youth diversion program if that program is available in the jurisdiction where the offender resides. Provides that attendance at a smoker's education or youth diversion program shall be time-credited against any community service time imposed for a violation of the provision prohibiting tobacco possession by a minor. Imposes several penalties for a violation of the provision prohibiting tobacco possession by a minor. Amends the Sale of Tobacco to Minors Act. Changes the short title of the Act to the "Prevention of Tobacco Use by Minors Act". Prohibits minors under 18 years of age from possessing any cigar, cigarette, smokeless tobacco, or tobacco in any of its forms. Imposes several penalties for a violation of the provision prohibiting tobacco possession by a minor.

LRB094 07461 RXD 37624 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning minors.

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

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
25 delinquent is continued pursuant to this Section, the period of
26 continuance under supervision may not exceed 24 months. The
27 court may terminate a continuance under supervision at any time
28 if warranted by the conduct of the minor and the ends of
29 justice.

30 (5) When a hearing where a minor is alleged to be
31 delinquent is continued pursuant to this Section, the court
32 may, as conditions of the continuance under supervision,

1 require the minor to do any of the following:

2 (a) not violate any criminal statute of any
3 jurisdiction;

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

6 (c) work or pursue a course of study or vocational
7 training;

8 (d) undergo medical or psychotherapeutic treatment
9 rendered by a therapist licensed under the provisions of
10 the Medical Practice Act of 1987, the Clinical Psychologist
11 Licensing Act, or the Clinical Social Work and Social Work
12 Practice Act, or an entity licensed by the Department of
13 Human Services as a successor to the Department of
14 Alcoholism and Substance Abuse, for the provision of drug
15 addiction and alcoholism treatment;

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

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

19 (g) pay costs;

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

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

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

25 (k) attend school;

26 (k-5) with the consent of the superintendent of the
27 facility, attend an educational program at a facility other
28 than the school in which the offense was committed if he or
29 she committed a crime of violence as defined in Section 2
30 of the Crime Victims Compensation Act in a school, on the
31 real property comprising a school, or within 1,000 feet of
32 the real property comprising a school;

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

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

36 (n) perform some reasonable public or community

1 service;

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

7 (p) comply with curfew requirements as designated by
8 the court;

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

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

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

21 (s) refrain from having in his or her body the presence
22 of any illicit drug prohibited by the Cannabis Control Act
23 or the Illinois Controlled Substances Act, unless
24 prescribed by a physician, and submit samples of his or her
25 blood or urine or both for tests to determine the presence
26 of any illicit drug; or

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

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

36 (7) If a petition is filed charging a violation of a

1 condition of the continuance under supervision, the court shall
2 conduct a hearing. If the court finds that a condition of
3 supervision has not been fulfilled, the court may proceed to
4 findings and adjudication and disposition. The filing of a
5 petition for violation of a condition of the continuance under
6 supervision shall toll the period of continuance under
7 supervision until the final determination of the charge, and
8 the term of the continuance under supervision shall not run
9 until the hearing and disposition of the petition for
10 violation; provided where the petition alleges conduct that
11 does not constitute a criminal offense, the hearing must be
12 held within 30 days of the filing of the petition unless a
13 delay shall continue the tolling of the period of continuance
14 under supervision for the period of the delay.

15 (8) When a hearing in which a minor is alleged to be a
16 delinquent for reasons that include a violation of Section
17 21-1.3 of the Criminal Code of 1961 is continued under this
18 Section, the court shall, as a condition of the continuance
19 under supervision, require the minor to perform community
20 service for not less than 30 and not more than 120 hours, if
21 community service is available in the jurisdiction. The
22 community service shall include, but need not be limited to,
23 the cleanup and repair of the damage that was caused by the
24 alleged violation or similar damage to property located in the
25 municipality or county in which the alleged violation occurred.
26 The condition may be in addition to any other condition.

27 (8.5) When a hearing in which a minor is alleged to be a
28 delinquent for reasons that include a violation of Section 3.02
29 or Section 3.03 of the Humane Care for Animals Act or paragraph
30 (d) of subsection (1) of Section 21-1 of the Criminal Code of
31 1961 is continued under this Section, the court shall, as a
32 condition of the continuance under supervision, require the
33 minor to undergo medical or psychiatric treatment rendered by a
34 psychiatrist or psychological treatment rendered by a clinical
35 psychologist. The condition may be in addition to any other
36 condition.

1 (9) When a hearing in which a minor is alleged to be a
2 delinquent is continued under this Section, the court, before
3 continuing the case, shall make a finding whether the offense
4 alleged to have been committed either: (i) was related to or in
5 furtherance of the activities of an organized gang or was
6 motivated by the minor's membership in or allegiance to an
7 organized gang, or (ii) is a violation of paragraph (13) of
8 subsection (a) of Section 12-2 of the Criminal Code of 1961, a
9 violation of any Section of Article 24 of the Criminal Code of
10 1961, or a violation of any statute that involved the unlawful
11 use of a firearm. If the court determines the question in the
12 affirmative the court shall, as a condition of the continuance
13 under supervision and as part of or in addition to any other
14 condition of the supervision, require the minor to perform
15 community service for not less than 30 hours, provided that
16 community service is available in the jurisdiction and is
17 funded and approved by the county board of the county where the
18 offense was committed. The community service shall include, but
19 need not be limited to, the cleanup and repair of any damage
20 caused by an alleged violation of Section 21-1.3 of the
21 Criminal Code of 1961 and similar damage to property located in
22 the municipality or county in which the alleged violation
23 occurred. When possible and reasonable, the community service
24 shall be performed in the minor's neighborhood. For the
25 purposes of this Section, "organized gang" has the meaning
26 ascribed to it in Section 10 of the Illinois Streetgang
27 Terrorism Omnibus Prevention Act.

28 (10) The court shall impose upon a minor placed on
29 supervision, as a condition of the supervision, a fee of \$25
30 for each month of supervision ordered by the court, unless
31 after determining the inability of the minor placed on
32 supervision to pay the fee, the court assesses a lesser amount.
33 The court may not impose the fee on a minor who is made a ward
34 of the State under this Act while the minor is in placement.
35 The fee shall be imposed only upon a minor who is actively
36 supervised by the probation and court services department. A

1 court may order the parent, guardian, or legal custodian of the
2 minor to pay some or all of the fee on the minor's behalf.

3 (11) If a minor is placed on supervision for a violation of
4 subsection (b) of Section 1 of the Prevention of Tobacco Use by
5 Minors Act, the court may, in its discretion, and upon
6 recommendation by the State's Attorney, order that minor and
7 his or her parents or legal guardian to attend a smoker's
8 education or youth diversion program as defined in that Act if
9 that program is available in the jurisdiction where the
10 offender resides. Attendance at a smoker's education or youth
11 diversion program shall be time-credited against any community
12 service time imposed for any first violation of subsection (b)
13 of Section 1 of that Act. In addition to any other penalty that
14 the court may impose for a violation of subsection (b) of
15 Section 1 of that Act, the court, upon request by the State's
16 Attorney, may in its discretion require the offender to remit a
17 fee for his or her attendance at a smoker's education or youth
18 diversion program.

19 For purposes of this Section, "smoker's education program"
20 or "youth diversion program" includes, but is not limited to, a
21 seminar designed to educate a person on the physical and
22 psychological effects of smoking tobacco products and the
23 health consequences of smoking tobacco products that can be
24 conducted with a locality's youth diversion program.

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

27 (a) If a minor violates subsection (b) of Section 1 of the
28 Prevention of Tobacco Use by Minors Act, the court may impose a
29 sentence of 15 hours of community service or a fine of \$25 for
30 a first violation.

31 (b) A second violation by a minor of subsection (b) of
32 Section 1 of that Act that occurs within 12 months after the
33 first violation is punishable by a fine of \$50 and 25 hours of
34 community service.

35 (c) A third or subsequent violation by a minor of
36 subsection (b) of Section 1 of that Act that occurs within 12

1 months after the first violation is punishable by a \$100 fine
2 and 30 hours of community service.

3 (d) Any second or subsequent violation not within the
4 12-month time period after the first violation is punishable as
5 provided for a first violation.

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

9 (705 ILCS 405/5-710)

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

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

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

15 (i) put on probation or conditional discharge and
16 released to his or her parents, guardian or legal
17 custodian, provided, however, that any such minor who
18 is not committed to the Department of Corrections,
19 Juvenile Division under this subsection and who is
20 found to be a delinquent for an offense which is first
21 degree murder, a Class X felony, or a forcible felony
22 shall be placed on probation;

23 (ii) placed in accordance with Section 5-740, with
24 or without also being put on probation or conditional
25 discharge;

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

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

32 (v) placed in detention for a period not to exceed
33 30 days, either as the exclusive order of disposition
34 or, where appropriate, in conjunction with any other
35 order of disposition issued under this paragraph,

1 provided that any such detention shall be in a juvenile
2 detention home and the minor so detained shall be 10
3 years of age or older. However, the 30-day limitation
4 may be extended by further order of the court for a
5 minor under age 13 committed to the Department of
6 Children and Family Services if the court finds that
7 the minor is a danger to himself or others. The minor
8 shall be given credit on the sentencing order of
9 detention for time spent in detention under Sections
10 5-501, 5-601, 5-710, or 5-720 of this Article as a
11 result of the offense for which the sentencing order
12 was imposed. The court may grant credit on a sentencing
13 order of detention entered under a violation of
14 probation or violation of conditional discharge under
15 Section 5-720 of this Article for time spent in
16 detention before the filing of the petition alleging
17 the violation. A minor shall not be deprived of credit
18 for time spent in detention before the filing of a
19 violation of probation or conditional discharge
20 alleging the same or related act or acts;

21 (vi) ordered partially or completely emancipated
22 in accordance with the provisions of the Emancipation
23 of ~~Mature~~ Minors Act;

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

28 (viii) put on probation or conditional discharge
29 and placed in detention under Section 3-6039 of the
30 Counties Code for a period not to exceed the period of
31 incarceration permitted by law for adults found guilty
32 of the same offense or offenses for which the minor was
33 adjudicated delinquent, and in any event no longer than
34 upon attainment of age 21; this subdivision (viii)
35 notwithstanding any contrary provision of the law; or

36 (ix) ordered to undergo a medical or other

1 procedure to have a tattoo symbolizing allegiance to a
2 street gang removed from his or her body.

3 (b) A minor found to be guilty may be committed to the
4 Department of Corrections, Juvenile Division, under
5 Section 5-750 if the minor is 13 years of age or older,
6 provided that the commitment to the Department of
7 Corrections, Juvenile Division, shall be made only if a
8 term of incarceration is permitted by law for adults found
9 guilty of the offense for which the minor was adjudicated
10 delinquent. The time during which a minor is in custody
11 before being released upon the request of a parent,
12 guardian or legal custodian shall be considered as time
13 spent in detention.

14 (c) When a minor is found to be guilty for an offense
15 which is a violation of the Illinois Controlled Substances
16 Act or the Cannabis Control Act and made a ward of the
17 court, the court may enter a disposition order requiring
18 the minor to undergo assessment, counseling or treatment in
19 a substance abuse program approved by the Department of
20 Human Services.

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

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

29 (4) In addition to any other sentence, the court may order
30 any minor found to be delinquent to make restitution, in
31 monetary or non-monetary form, under the terms and conditions
32 of Section 5-5-6 of the Unified Code of Corrections, except
33 that the "presentencing hearing" referred to in that Section
34 shall be the sentencing hearing for purposes of this Section.
35 The parent, guardian or legal custodian of the minor may be
36 ordered by the court to pay some or all of the restitution on

1 the minor's behalf, pursuant to the Parental Responsibility
2 Law. The State's Attorney is authorized to act on behalf of any
3 victim in seeking restitution in proceedings under this
4 Section, up to the maximum amount allowed in Section 5 of the
5 Parental Responsibility Law.

6 (5) Any sentencing order where the minor is committed or
7 placed in accordance with Section 5-740 shall provide for the
8 parents or guardian of the estate of the minor to pay to the
9 legal custodian or guardian of the person of the minor such
10 sums as are determined by the custodian or guardian of the
11 person of the minor as necessary for the minor's needs. The
12 payments may not exceed the maximum amounts provided for by
13 Section 9.1 of the Children and Family Services Act.

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

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

23 (8) A minor found to be guilty for reasons that include a
24 violation of Section 21-1.3 of the Criminal Code of 1961 shall
25 be ordered to perform community service for not less than 30
26 and not more than 120 hours, if community service is available
27 in the jurisdiction. The community service shall include, but
28 need not be limited to, the cleanup and repair of the damage
29 that was caused by the violation or similar damage to property
30 located in the municipality or county in which the violation
31 occurred. The order may be in addition to any other order
32 authorized by this Section.

33 (8.5) A minor found to be guilty for reasons that include a
34 violation of Section 3.02 or Section 3.03 of the Humane Care
35 for Animals Act or paragraph (d) of subsection (1) of Section
36 21-1 of the Criminal Code of 1961 shall be ordered to undergo

1 medical or psychiatric treatment rendered by a psychiatrist or
2 psychological treatment rendered by a clinical psychologist.
3 The order may be in addition to any other order authorized by
4 this Section.

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

1 shall be paid by the county and may be taxed as costs against
2 the minor.

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

32 (11) If a minor is found to be guilty of a violation of
33 subsection (b) of Section 1 of the Prevention of Tobacco Use by
34 Minors Act, the court may, in its discretion, and upon
35 recommendation by the State's Attorney, order that minor and
36 his or her parents or legal guardian to attend a smoker's

1 education or youth diversion program as defined in that Act if
2 that program is available in the jurisdiction where the
3 offender resides. Attendance at a smoker's education or youth
4 diversion program shall be time-credited against any community
5 service time imposed for any first violation of subsection (b)
6 of Section 1 of that Act. In addition to any other penalty that
7 the court may impose for a violation of subsection (b) of
8 Section 1 of that Act, the court, upon request by the State's
9 Attorney, may in its discretion require the offender to remit a
10 fee for his or her attendance at a smoker's education or youth
11 diversion program.

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

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

20 (a) If a minor violates subsection (b) of Section 1 of the
21 Prevention of Tobacco Use by Minors Act, the court may impose a
22 sentence of 15 hours of community service or a fine of \$25 for
23 a first violation.

24 (b) A second violation by a minor of subsection (b) of
25 Section 1 of that Act that occurs within 12 months after the
26 first violation is punishable by a fine of \$50 and 25 hours of
27 community service.

28 (c) A third or subsequent violation by a minor of
29 subsection (b) of Section 1 of that Act that occurs within 12
30 months after the first violation is punishable by a \$100 fine
31 and 30 hours of community service.

32 (d) Any second or subsequent violation not within the
33 12-month time period after the first violation is punishable as
34 provided for a first violation.

35 (Source: P.A. 91-98, eff. 1-1-00; 92-454, eff. 1-1-02; revised
36 10-9-03.)

1 Section 10. The Sale of Tobacco to Minors Act is amended by
2 changing the title of the Act and Sections 0.01, 1, and 2 as
3 follows:

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 of tobacco to minors; vending
15 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 16 years of age may sell any cigar,
22 cigarette, smokeless tobacco, or tobacco in any of its forms at
23 a retail establishment selling tobacco products. This
24 subsection does not apply to a sales clerk in a family-owned
25 business which can prove that the sales clerk is in fact a son
26 or daughter of the owner.

27 (b) No minor under 18 years of age shall possess any cigar,
28 cigarette, smokeless tobacco, or tobacco in any of its forms.

29 (c) For the purpose of this Section, "smokeless tobacco"
30 means any tobacco products that are suitable for dipping or
31 chewing.

32 (d) ~~(b)~~ Tobacco products listed in this Section ~~above~~ may

1 be sold through a vending machine only in the following
2 locations:

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

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

7 (3) Places where alcoholic beverages are sold and
8 consumed on the premises.

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

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

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

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

29 (Source: P.A. 93-284, eff. 1-1-04; 93-886, eff. 1-1-05.)

30 (720 ILCS 675/2) (from Ch. 23, par. 2358)

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

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

4 (c) A second violation by a minor of subsection (b) of
5 Section 1 that occurs within 12 months after the first
6 violation is punishable by a fine of \$50 and 25 hours of
7 community service.

8 (d) A third or subsequent violation by a minor of
9 subsection (b) of Section 1 that occurs within 12 months after
10 the first violation is punishable by a \$100 fine and 30 hours
11 of community service.

12 (e) Any second or subsequent violation not within the
13 12-month time period after the first violation is punishable as
14 provided for a first violation.

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

30 (g) For purposes of this Section, "smoker's education
31 program" or "youth diversion program" includes, but is not
32 limited to, a seminar designed to educate a person on the
33 physical and psychological effects of smoking tobacco products
34 and the health consequences of smoking tobacco products that
35 can be conducted with a locality's youth diversion program.

36 (h) All moneys collected as fines for violations of

1 subsection (a) of Section 1 shall be distributed in the
2 following manner:

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

6 (2) one-half shall be remitted to the State to be used
7 for enforcing this Act. ~~One half of each fine collected~~
8 ~~under this Section shall be distributed to the unit of~~
9 ~~local government or other entity that successfully~~
10 ~~prosecuted the offender and one half shall be remitted to~~
11 ~~the State to be used for enforcing this Act.~~

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