



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB0274

Introduced 1/19/2007, by Rep. Ronald A. Wait

#### SYNOPSIS AS INTRODUCED:

See Index

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 the sale to and possession of tobacco by minors (instead of the sale of tobacco to minors). Provides that it is a petty offense for a minor under 16 years of age to sell any cigar, cigarette, smokeless tobacco, or tobacco in any of its forms at a retail establishment selling tobacco products. Provides that it is a petty offense for a minor under 18 years of age to possess any cigar, cigarette, smokeless tobacco, or tobacco in any of its forms. Amends other Acts to change references to the short title of the Prevention of Tobacco Use by Minors Act. Makes other changes. Effective immediately.

LRB095 04004 RLC 24037 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL 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 Liquor Control Act of 1934 is amended by  
5 changing Section 6-16.1 as follows:

6 (235 ILCS 5/6-16.1)

7 Sec. 6-16.1. Enforcement actions.

8 (a) A licensee or an officer, associate, member,  
9 representative, agent, or employee of a licensee may sell,  
10 give, or deliver alcoholic liquor to a person under the age of  
11 21 years or authorize the sale, gift, or delivery of alcoholic  
12 liquor to a person under the age of 21 years pursuant to a plan  
13 or action to investigate, patrol, or otherwise conduct a "sting  
14 operation" or enforcement action against a person employed by  
15 the licensee or on any licensed premises if the licensee or  
16 officer, associate, member, representative, agent, or employee  
17 of the licensee provides written notice, at least 14 days  
18 before the "sting operation" or enforcement action, unless  
19 governing body of the municipality or county having  
20 jurisdiction sets a shorter period by ordinance, to the law  
21 enforcement agency having jurisdiction, the local liquor  
22 control commissioner, or both. Notice provided under this  
23 Section shall be valid for a "sting operation" or enforcement

1 action conducted within 60 days of the provision of that  
2 notice, unless the governing body of the municipality or county  
3 having jurisdiction sets a shorter period by ordinance.

4 (b) A local liquor control commission or unit of local  
5 government that conducts alcohol and tobacco compliance  
6 operations shall establish a policy and standards for alcohol  
7 and tobacco compliance operations to investigate whether a  
8 licensee is furnishing (1) alcoholic liquor to persons under 21  
9 years of age in violation of this Act or (2) tobacco to persons  
10 in violation of the Prevention of Tobacco Use by Sale of  
11 ~~Tobacco to~~ Minors Act.

12 (c) The Illinois Law Enforcement Training Standards Board  
13 shall develop a model policy and guidelines for the operation  
14 of alcohol and tobacco compliance checks by local law  
15 enforcement officers. The Illinois Law Enforcement Training  
16 Standards Board shall also require the supervising officers of  
17 such compliance checks to have met a minimum training standard  
18 as determined by the Board. The Board shall have the right to  
19 waive any training based on current written policies and  
20 procedures for alcohol and tobacco compliance check operations  
21 and in-service training already administered by the local law  
22 enforcement agency, department, or office.

23 (d) The provisions of subsections (b) and (c) do not apply  
24 to a home rule unit with more than 2,000,000 inhabitants.

25 (e) A home rule unit, other than a home rule unit with more  
26 than 2,000,000 inhabitants, may not regulate enforcement

1 actions in a manner inconsistent with the regulation of  
2 enforcement actions under this Section. This subsection (e) is  
3 a limitation under subsection (i) of Section 6 of Article VII  
4 of the Illinois Constitution on the concurrent exercise by home  
5 rule units of powers and functions exercised by the State.

6 (f) A licensee who is the subject of an enforcement action  
7 or "sting operation" under this Section and is found, pursuant  
8 to the enforcement action, to be in compliance with this Act  
9 shall be notified by the enforcement agency action that no  
10 violation was found within 30 days after the finding.

11 (Source: P.A. 92-503, eff. 1-1-02; 93-1057, eff. 12-2-04.)

12 Section 10. The Juvenile Court Act of 1987 is amended by  
13 changing Sections 5-615 and 5-710 as follows:

14 (705 ILCS 405/5-615)

15 Sec. 5-615. Continuance under supervision.

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

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

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

8           (4) When a hearing where a minor is alleged to be a  
9 delinquent is continued pursuant to this Section, the period of  
10 continuance under supervision may not exceed 24 months. The  
11 court may terminate a continuance under supervision at any time  
12 if warranted by the conduct of the minor and the ends of  
13 justice.

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

18                 (a) not violate any criminal statute of any  
19 jurisdiction;

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

22                 (c) work or pursue a course of study or vocational  
23 training;

24                 (d) undergo medical or psychotherapeutic treatment  
25 rendered by a therapist licensed under the provisions of  
26 the Medical Practice Act of 1987, the Clinical Psychologist

1       Licensing Act, or the Clinical Social Work and Social Work  
2       Practice Act, or an entity licensed by the Department of  
3       Human Services as a successor to the Department of  
4       Alcoholism and Substance Abuse, for the provision of drug  
5       addiction and alcoholism treatment;

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

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

9           (g) pay costs;

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

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

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

15          (k) attend school;

16          (k-5) with the consent of the superintendent of the  
17       facility, attend an educational program at a facility other  
18       than the school in which the offense was committed if he or  
19       she committed a crime of violence as defined in Section 2  
20       of the Crime Victims Compensation Act in a school, on the  
21       real property comprising a school, or within 1,000 feet of  
22       the real property comprising a school;

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

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

26          (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 the Illinois Controlled Substances Act, or the  
24 Methamphetamine Control and Community Protection Act,  
25 unless prescribed by a physician, and submit samples of his  
26 or her blood or urine or both for tests to determine the

1 presence of any illicit drug; or

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

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

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

26 (8) When a hearing in which a minor is alleged to be a



1 delinquent for reasons that include a violation of Section  
2 21-1.3 of the Criminal Code of 1961 is continued under this  
3 Section, the court shall, as a condition of the continuance  
4 under supervision, require the minor to perform community  
5 service for not less than 30 and not more than 120 hours, if  
6 community service is available in the jurisdiction. The  
7 community service shall include, but need not be limited to,  
8 the cleanup and repair of the damage that was caused by the  
9 alleged violation or similar damage to property located in the  
10 municipality or county in which the alleged violation occurred.  
11 The condition may be in addition to any other condition.

12 (8.5) When a hearing in which a minor is alleged to be a  
13 delinquent for reasons that include a violation of Section 3.02  
14 or Section 3.03 of the Humane Care for Animals Act or paragraph  
15 (d) of subsection (1) of Section 21-1 of the Criminal Code of  
16 1961 is continued under this Section, the court shall, as a  
17 condition of the continuance under supervision, require the  
18 minor to undergo medical or psychiatric treatment rendered by a  
19 psychiatrist or psychological treatment rendered by a clinical  
20 psychologist. The condition may be in addition to any other  
21 condition.

22 (9) When a hearing in which a minor is alleged to be a  
23 delinquent is continued under this Section, the court, before  
24 continuing the case, shall make a finding whether the offense  
25 alleged to have been committed either: (i) was related to or in  
26 furtherance of the activities of an organized gang or was

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

23 (10) The court shall impose upon a minor placed on  
24 supervision, as a condition of the supervision, a fee of \$25  
25 for each month of supervision ordered by the court, unless  
26 after determining the inability of the minor placed on

1 supervision to pay the fee, the court assesses a lesser amount.  
2 The court may not impose the fee on a minor who is made a ward  
3 of the State under this Act while the minor is in placement.  
4 The fee shall be imposed only upon a minor who is actively  
5 supervised by the probation and court services department. A  
6 court may order the parent, guardian, or legal custodian of the  
7 minor to pay some or all of the fee on the minor's behalf.

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

24 For purposes of this Section, "smoker's education program"  
25 or "youth diversion program" includes, but is not limited to, a  
26 seminar designed to educate a person on the physical and

1 psychological effects of smoking tobacco products and the  
2 health consequences of smoking tobacco products that can be  
3 conducted with a locality's youth diversion program.

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

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

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

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

18 (d) Any second or subsequent violation not within the  
19 12-month time period after the first violation is punishable as  
20 provided for a first violation.

21 (Source: P.A. eff. 1-1-00; 94-556, eff. 9-11-05.)

22 (705 ILCS 405/5-710)

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

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

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

3           (i) put on probation or conditional discharge and  
4 released to his or her parents, guardian or legal  
5 custodian, provided, however, that any such minor who  
6 is not committed to the Department of Juvenile Justice  
7 under this subsection and who is found to be a  
8 delinquent for an offense which is first degree murder,  
9 a Class X felony, or a forcible felony shall be placed  
10 on probation;

11           (ii) placed in accordance with Section 5-740, with  
12 or without also being put on probation or conditional  
13 discharge;

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

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

20           (v) placed in detention for a period not to exceed  
21 30 days, either as the exclusive order of disposition  
22 or, where appropriate, in conjunction with any other  
23 order of disposition issued under this paragraph,  
24 provided that any such detention shall be in a juvenile  
25 detention home and the minor so detained shall be 10  
26 years of age or older. However, the 30-day limitation

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

18                 (vi) ordered partially or completely emancipated  
19                 in accordance with the provisions of the Emancipation  
20                 of Minors Act;

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

25                 (viii) put on probation or conditional discharge  
26                 and placed in detention under Section 3-6039 of the

1 Counties Code for a period not to exceed the period of  
2 incarceration permitted by law for adults found guilty  
3 of the same offense or offenses for which the minor was  
4 adjudicated delinquent, and in any event no longer than  
5 upon attainment of age 21; this subdivision (viii)  
6 notwithstanding any contrary provision of the law; or  
7 (ix) ordered to undergo a medical or other  
8 procedure to have a tattoo symbolizing allegiance to a  
9 street gang removed from his or her body.

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

20 (c) When a minor is found to be guilty for an offense  
21 which is a violation of the Illinois Controlled Substances  
22 Act, the Cannabis Control Act, or the Methamphetamine  
23 Control and Community Protection Act and made a ward of the  
24 court, the court may enter a disposition order requiring  
25 the minor to undergo assessment, counseling or treatment in  
26 a substance abuse program approved by the Department of

1 Human Services.

2 (2) Any sentencing order other than commitment to the  
3 Department of Juvenile Justice may provide for protective  
4 supervision under Section 5-725 and may include an order of  
5 protection under Section 5-730.

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

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

23 (5) Any sentencing order where the minor is committed or  
24 placed in accordance with Section 5-740 shall provide for the  
25 parents or guardian of the estate of the minor to pay to the  
26 legal custodian or guardian of the person of the minor such



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

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

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

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

24 (8.5) A minor found to be guilty for reasons that include a  
25 violation of Section 3.02 or Section 3.03 of the Humane Care  
26 for Animals Act or paragraph (d) of subsection (1) of Section

1 21-1 of the Criminal Code of 1961 shall be ordered to undergo  
2 medical or psychiatric treatment rendered by a psychiatrist or  
3 psychological treatment rendered by a clinical psychologist.  
4 The order may be in addition to any other order authorized by  
5 this Section.

6 (9) In addition to any other sentencing order, the court  
7 shall order any minor found to be guilty for an act which would  
8 constitute, predatory criminal sexual assault of a child,  
9 aggravated criminal sexual assault, criminal sexual assault,  
10 aggravated criminal sexual abuse, or criminal sexual abuse if  
11 committed by an adult to undergo medical testing to determine  
12 whether the defendant has any sexually transmissible disease  
13 including a test for infection with human immunodeficiency  
14 virus (HIV) or any other identified causative agency of  
15 acquired immunodeficiency syndrome (AIDS). Any medical test  
16 shall be performed only by appropriately licensed medical  
17 practitioners and may include an analysis of any bodily fluids  
18 as well as an examination of the minor's person. Except as  
19 otherwise provided by law, the results of the test shall be  
20 kept strictly confidential by all medical personnel involved in  
21 the testing and must be personally delivered in a sealed  
22 envelope to the judge of the court in which the sentencing  
23 order was entered for the judge's inspection in camera. Acting  
24 in accordance with the best interests of the victim and the  
25 public, the judge shall have the discretion to determine to  
26 whom the results of the testing may be revealed. The court

1 shall notify the minor of the results of the test for infection  
2 with the human immunodeficiency virus (HIV). The court shall  
3 also notify the victim if requested by the victim, and if the  
4 victim is under the age of 15 and if requested by the victim's  
5 parents or legal guardian, the court shall notify the victim's  
6 parents or the legal guardian, of the results of the test for  
7 infection with the human immunodeficiency virus (HIV). The  
8 court shall provide information on the availability of HIV  
9 testing and counseling at the Department of Public Health  
10 facilities to all parties to whom the results of the testing  
11 are revealed. The court shall order that the cost of any test  
12 shall be paid by the county and may be taxed as costs against  
13 the minor.

14 (10) When a court finds a minor to be guilty the court  
15 shall, before entering a sentencing order under this Section,  
16 make a finding whether the offense committed either: (a) was  
17 related to or in furtherance of the criminal activities of an  
18 organized gang or was motivated by the minor's membership in or  
19 allegiance to an organized gang, or (b) involved a violation of  
20 subsection (a) of Section 12-7.1 of the Criminal Code of 1961,  
21 a violation of any Section of Article 24 of the Criminal Code  
22 of 1961, or a violation of any statute that involved the  
23 wrongful use of a firearm. If the court determines the question  
24 in the affirmative, and the court does not commit the minor to  
25 the Department of Juvenile Justice, the court shall order the  
26 minor to perform community service for not less than 30 hours

1 nor more than 120 hours, provided that community service is  
2 available in the jurisdiction and is funded and approved by the  
3 county board of the county where the offense was committed. The  
4 community service shall include, but need not be limited to,  
5 the cleanup and repair of any damage caused by a violation of  
6 Section 21-1.3 of the Criminal Code of 1961 and similar damage  
7 to property located in the municipality or county in which the  
8 violation occurred. When possible and reasonable, the  
9 community service shall be performed in the minor's  
10 neighborhood. This order shall be in addition to any other  
11 order authorized by this Section except for an order to place  
12 the minor in the custody of the Department of Juvenile Justice.  
13 For the purposes of this Section, "organized gang" has the  
14 meaning ascribed to it in Section 10 of the Illinois Streetgang  
15 Terrorism Omnibus Prevention Act.

16 (11) If a minor is found to be guilty of a violation of  
17 subsection (b) of Section 1 of the Prevention of Tobacco Use by  
18 Minors Act, the court may, in its discretion, and upon  
19 recommendation by the State's Attorney, order that minor and  
20 his or her parents or legal guardian to attend a smoker's  
21 education or youth diversion program as defined in that Act if  
22 that program is available in the jurisdiction where the  
23 offender resides. Attendance at a smoker's education or youth  
24 diversion program shall be time-credited against any community  
25 service time imposed for any first violation of subsection (b)  
26 of Section 1 of that Act. In addition to any other penalty that

1 the court may impose for a violation of subsection (b) of  
2 Section 1 of that Act, the court, upon request by the State's  
3 Attorney, may in its discretion require the offender to remit a  
4 fee for his or her attendance at a smoker's education or youth  
5 diversion program.

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

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

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

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

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

26 (d) Any second or subsequent violation not within the

1 12-month time period after the first violation is punishable as  
2 provided for a first violation.

3 (Source: P.A. 94-556, eff. 9-11-05; 94-696, eff. 6-1-06.)

4 Section 15. The Sale of Tobacco to Minors Act is amended by  
5 changing the title of the Act and Sections 0.01, 1, and 2 as  
6 follows:

7 (720 ILCS 675/Act title)

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

12 (720 ILCS 675/0.01) (from Ch. 23, par. 2356.9)

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

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

16 (720 ILCS 675/1) (from Ch. 23, par. 2357)

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

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

1 its forms, to any minor under 18 years of age.

2 (a-5) No minor under 16 years of age may sell any cigar,  
3 cigarette, smokeless tobacco, or tobacco in any of its forms at  
4 a retail establishment selling tobacco products. This  
5 subsection does not apply to a sales clerk in a family-owned  
6 business which can prove that the sales clerk is in fact a son  
7 or daughter of the owner.

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

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

13 (d) ~~(b)~~ Tobacco products listed in this Section ~~above~~ may  
14 be sold through a vending machine only in the following  
15 locations:

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

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

20 (3) Places where alcoholic beverages are sold and  
21 consumed on the premises.

22 (4) Places where the vending machine is under the  
23 direct supervision of the owner of the establishment or an  
24 employee over 18 years of age. The sale of tobacco products  
25 from a vending machine under direct supervision of the  
26 owner or an employee of the establishment is considered a

1 sale of tobacco products by that person. As used in this  
2 subdivision, "direct supervision" means that the owner or  
3 employee has an unimpeded line of sight to the vending  
4 machine.

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

9 (e) ~~(e)~~ The sale or distribution at no charge of cigarettes  
10 from a lunch wagon engaging in any sales activity within 1,000  
11 feet of any public or private elementary or secondary school  
12 grounds is prohibited.

13 (f) It is not a violation of this Act for a person under 18  
14 years of age to purchase or possess a cigar, cigarette,  
15 smokeless tobacco or tobacco in any of its forms if the person  
16 under the age of 18 purchases or is given the cigar, cigarette,  
17 smokeless tobacco or tobacco in any of its forms from a retail  
18 seller of tobacco products or an employee of the retail seller  
19 pursuant to a plan or action to investigate, patrol, or  
20 otherwise conduct a "sting operation" or enforcement action  
21 against a retail seller of tobacco products or a person  
22 employed by the retail seller of tobacco products or on any  
23 premises authorized to sell tobacco products to determine if  
24 tobacco products are being sold or given to persons under 18  
25 years of age if the "sting operation" or enforcement action is  
26 approved by the Department of State Police, the county sheriff,



1 a municipal police department, the Department of Public Health,  
2 or a local health department.

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

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

7 (720 ILCS 675/2) (from Ch. 23, par. 2358)

8 Sec. 2. (a) Any person who violates subsections (a) or  
9 (a)(5) of Section 1 ~~any provision~~ of this Act is guilty of a  
10 petty offense and for the first offense shall be fined \$200,  
11 \$400 for the second offense in a 12-month period, and \$600 for  
12 the third or any subsequent offense in a 12-month period.

13 (b) If a minor violates subsection (b) of Section 1 he or  
14 she is guilty of a petty offense and the court may impose a  
15 sentence of 15 hours of community service or a fine of \$25 for  
16 a first violation.

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

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

25 (e) Any second or subsequent violation not within the

1 12-month time period after the first violation is punishable as  
2 provided for a first violation.

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

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

24 (h) All moneys collected as fines for violations of  
25 subsection (a) of Section 1 shall be distributed in the  
26 following manner:

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

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

10        (Source: P.A. 88-418.)

11           Section 20. The Display of Tobacco Products Act is amended  
12        by changing Section 15 as follows:

13           (720 ILCS 677/15)

14           Sec. 15. Vending machines. This Act does not prohibit the  
15        sale of tobacco products from vending machines if the location  
16        of the vending machines are in compliance with the provisions  
17        of Section 1 of the Prevention of Tobacco Use by Sale of  
18        ~~Tobacco to~~ Minors Act.

19        (Source: P.A. 93-886, eff. 1-1-05.)

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

1 INDEX

2 Statutes amended in order of appearance

3 235 ILCS 5/6-16.1

4 705 ILCS 405/5-615

5 705 ILCS 405/5-710

6 720 ILCS 675/Act title

7 720 ILCS 675/0.01 from Ch. 23, par. 2356.9

8 720 ILCS 675/1 from Ch. 23, par. 2357

9 720 ILCS 675/2 from Ch. 23, par. 2358

10 720 ILCS 677/15