

1 AN ACT concerning revenue.

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

4 Section 3. The Retailers' Occupation Tax Act is amended by
5 changing Section 2a as follows:

6 (35 ILCS 120/2a) (from Ch. 120, par. 441a)

7 Sec. 2a. It is unlawful for any person to engage in the
8 business of selling tangible personal property at retail in
9 this State without a certificate of registration from the
10 Department. Application for a certificate of registration
11 shall be made to the Department upon forms furnished by it.
12 Each such application shall be signed and verified and shall
13 state: (1) the name and social security number of the
14 applicant; (2) the address of his principal place of business;
15 (3) the address of the principal place of business from which
16 he engages in the business of selling tangible personal
17 property at retail in this State and the addresses of all other
18 places of business, if any (enumerating such addresses, if any,
19 in a separate list attached to and made a part of the
20 application), from which he engages in the business of selling
21 tangible personal property at retail in this State; (4) the
22 name and address of the person or persons who will be
23 responsible for filing returns and payment of taxes due under

1 this Act; (5) in the case of a corporation, the name, title,
2 and social security number of each corporate officer; (6) in
3 the case of a limited liability company, the name, social
4 security number, and FEIN number of each manager and member;
5 and (7) such other information as the Department may reasonably
6 require. The application shall contain an acceptance of
7 responsibility signed by the person or persons who will be
8 responsible for filing returns and payment of the taxes due
9 under this Act. If the applicant will sell tangible personal
10 property at retail through vending machines, his application to
11 register shall indicate the number of vending machines to be so
12 operated; and thereafter, he shall notify the Department by
13 January 31 of the number of vending machines which such person
14 was using in his business of selling tangible personal property
15 at retail on the preceding December 31.

16 The Department may deny a certificate of registration to
17 any applicant if the owner, any partner, any manager or member
18 of a limited liability company, or a corporate officer of the
19 applicant, is or has been the owner, a partner, a manager or
20 member of a limited liability company, or a corporate officer,
21 of another retailer that is in default for moneys due under
22 this Act.

23 Every applicant for a certificate of registration
24 hereunder shall, at the time of filing such application,
25 furnish a bond from a surety company authorized to do business
26 in the State of Illinois, or an irrevocable bank letter of

1 credit or a bond signed by 2 personal sureties who have filed,
2 with the Department, sworn statements disclosing net assets
3 equal to at least 3 times the amount of the bond to be required
4 of such applicant, or a bond secured by an assignment of a bank
5 account or certificate of deposit, stocks or bonds, conditioned
6 upon the applicant paying to the State of Illinois all moneys
7 becoming due under this Act and under any other State tax law
8 or municipal or county tax ordinance or resolution under which
9 the certificate of registration that is issued to the applicant
10 under this Act will permit the applicant to engage in business
11 without registering separately under such other law, ordinance
12 or resolution. The Department shall fix the amount of such
13 security in each case, taking into consideration the amount of
14 money expected to become due from the applicant under this Act
15 and under any other State tax law or municipal or county tax
16 ordinance or resolution under which the certificate of
17 registration that is issued to the applicant under this Act
18 will permit the applicant to engage in business without
19 registering separately under such other law, ordinance or
20 resolution. The amount of security required by the Department
21 shall be such as, in its opinion, will protect the State of
22 Illinois against failure to pay the amount which may become due
23 from the applicant under this Act and under any other State tax
24 law or municipal or county tax ordinance or resolution under
25 which the certificate of registration that is issued to the
26 applicant under this Act will permit the applicant to engage in

1 business without registering separately under such other law,
2 ordinance or resolution, but the amount of the security
3 required by the Department shall not exceed three times the
4 amount of the applicant's average monthly tax liability, or
5 \$50,000.00, whichever amount is lower.

6 No certificate of registration under this Act shall be
7 issued by the Department until the applicant provides the
8 Department with satisfactory security as herein provided for.

9 Upon receipt of the application for certificate of
10 registration in proper form, and upon approval by the
11 Department of the security furnished by the applicant, the
12 Department shall issue to such applicant a certificate of
13 registration which shall permit the person to whom it is issued
14 to engage in the business of selling tangible personal property
15 at retail in this State. The certificate of registration shall
16 be conspicuously displayed at the place of business which the
17 person so registered states in his application to be the
18 principal place of business from which he engages in the
19 business of selling tangible personal property at retail in
20 this State.

21 No certificate of registration issued to a taxpayer who
22 files returns required by this Act on a monthly basis shall be
23 valid after the expiration of 5 years from the date of its
24 issuance or last renewal. The expiration date of a
25 sub-certificate of registration shall be that of the
26 certificate of registration to which the sub-certificate

1 relates. A certificate of registration shall automatically be
2 renewed, subject to revocation as provided by this Act, for an
3 additional 5 years from the date of its expiration unless
4 otherwise notified by the Department as provided by this
5 paragraph. Where a taxpayer to whom a certificate of
6 registration is issued under this Act is in default to the
7 State of Illinois for delinquent returns or for moneys due
8 under this Act or any other State tax law or municipal or
9 county ordinance administered or enforced by the Department,
10 the Department shall, not less than 120 days before the
11 expiration date of such certificate of registration, give
12 notice to the taxpayer to whom the certificate was issued of
13 the account period of the delinquent returns, the amount of
14 tax, penalty and interest due and owing from the taxpayer, and
15 that the certificate of registration shall not be automatically
16 renewed upon its expiration date unless the taxpayer, on or
17 before the date of expiration, has filed and paid the
18 delinquent returns or paid the defaulted amount in full. A
19 taxpayer to whom such a notice is issued shall be deemed an
20 applicant for renewal. The Department shall promulgate
21 regulations establishing procedures for taxpayers who file
22 returns on a monthly basis but desire and qualify to change to
23 a quarterly or yearly filing basis and will no longer be
24 subject to renewal under this Section, and for taxpayers who
25 file returns on a yearly or quarterly basis but who desire or
26 are required to change to a monthly filing basis and will be

1 subject to renewal under this Section.

2 The Department may in its discretion approve renewal by an
3 applicant who is in default if, at the time of application for
4 renewal, the applicant files all of the delinquent returns or
5 pays to the Department such percentage of the defaulted amount
6 as may be determined by the Department and agrees in writing to
7 waive all limitations upon the Department for collection of the
8 remaining defaulted amount to the Department over a period not
9 to exceed 5 years from the date of renewal of the certificate;
10 however, no renewal application submitted by an applicant who
11 is in default shall be approved if the immediately preceding
12 renewal by the applicant was conditioned upon the installment
13 payment agreement described in this Section. The payment
14 agreement herein provided for shall be in addition to and not
15 in lieu of the security required by this Section of a taxpayer
16 who is no longer considered a prior continuous compliance
17 taxpayer. The execution of the payment agreement as provided in
18 this Act shall not toll the accrual of interest at the
19 statutory rate.

20 The Department may suspend a certificate of registration if
21 the person to whom the certificate of registration has been
22 issued knowingly sells contraband or counterfeit cigarettes.

23 A certificate of registration issued under this Act more
24 than 5 years before the effective date of this amendatory Act
25 of 1989 shall expire and be subject to the renewal provisions
26 of this Section on the next anniversary of the date of issuance

1 of such certificate which occurs more than 6 months after the
2 effective date of this amendatory Act of 1989. A certificate of
3 registration issued less than 5 years before the effective date
4 of this amendatory Act of 1989 shall expire and be subject to
5 the renewal provisions of this Section on the 5th anniversary
6 of the issuance of the certificate.

7 If the person so registered states that he operates other
8 places of business from which he engages in the business of
9 selling tangible personal property at retail in this State, the
10 Department shall furnish him with a sub-certificate of
11 registration for each such place of business, and the applicant
12 shall display the appropriate sub-certificate of registration
13 at each such place of business. All sub-certificates of
14 registration shall bear the same registration number as that
15 appearing upon the certificate of registration to which such
16 sub-certificates relate.

17 If the applicant will sell tangible personal property at
18 retail through vending machines, the Department shall furnish
19 him with a sub-certificate of registration for each such
20 vending machine, and the applicant shall display the
21 appropriate sub-certificate of registration on each such
22 vending machine by attaching the sub-certificate of
23 registration to a conspicuous part of such vending machine.

24 Where the same person engages in 2 or more businesses of
25 selling tangible personal property at retail in this State,
26 which businesses are substantially different in character or

1 engaged in under different trade names or engaged in under
2 other substantially dissimilar circumstances (so that it is
3 more practicable, from an accounting, auditing or bookkeeping
4 standpoint, for such businesses to be separately registered),
5 the Department may require or permit such person (subject to
6 the same requirements concerning the furnishing of security as
7 those that are provided for hereinbefore in this Section as to
8 each application for a certificate of registration) to apply
9 for and obtain a separate certificate of registration for each
10 such business or for any of such businesses, under a single
11 certificate of registration supplemented by related
12 sub-certificates of registration.

13 Any person who is registered under the "Retailers'
14 Occupation Tax Act" as of March 8, 1963, and who, during the
15 3-year period immediately prior to March 8, 1963, or during a
16 continuous 3-year period part of which passed immediately
17 before and the remainder of which passes immediately after
18 March 8, 1963, has been so registered continuously and who is
19 determined by the Department not to have been either delinquent
20 or deficient in the payment of tax liability during that period
21 under this Act or under any other State tax law or municipal or
22 county tax ordinance or resolution under which the certificate
23 of registration that is issued to the registrant under this Act
24 will permit the registrant to engage in business without
25 registering separately under such other law, ordinance or
26 resolution, shall be considered to be a Prior Continuous

1 Compliance taxpayer. Also any taxpayer who has, as verified by
2 the Department, faithfully and continuously complied with the
3 condition of his bond or other security under the provisions of
4 this Act for a period of 3 consecutive years shall be
5 considered to be a Prior Continuous Compliance taxpayer.

6 Every Prior Continuous Compliance taxpayer shall be exempt
7 from all requirements under this Act concerning the furnishing
8 of security as a condition precedent to his being authorized to
9 engage in the business of selling tangible personal property at
10 retail in this State. This exemption shall continue for each
11 such taxpayer until such time as he may be determined by the
12 Department to be delinquent in the filing of any returns, or is
13 determined by the Department (either through the Department's
14 issuance of a final assessment which has become final under the
15 Act, or by the taxpayer's filing of a return which admits tax
16 that is not paid to be due) to be delinquent or deficient in
17 the paying of any tax under this Act or under any other State
18 tax law or municipal or county tax ordinance or resolution
19 under which the certificate of registration that is issued to
20 the registrant under this Act will permit the registrant to
21 engage in business without registering separately under such
22 other law, ordinance or resolution, at which time that taxpayer
23 shall become subject to all the financial responsibility
24 requirements of this Act and, as a condition of being allowed
25 to continue to engage in the business of selling tangible
26 personal property at retail, shall be required to post bond or

1 other acceptable security with the Department covering
2 liability which such taxpayer may thereafter incur. Any
3 taxpayer who fails to pay an admitted or established liability
4 under this Act may also be required to post bond or other
5 acceptable security with this Department guaranteeing the
6 payment of such admitted or established liability.

7 No certificate of registration shall be issued to any
8 person who is in default to the State of Illinois for moneys
9 due under this Act or under any other State tax law or
10 municipal or county tax ordinance or resolution under which the
11 certificate of registration that is issued to the applicant
12 under this Act will permit the applicant to engage in business
13 without registering separately under such other law, ordinance
14 or resolution.

15 Any person aggrieved by any decision of the Department
16 under this Section may, within 20 days after notice of such
17 decision, protest and request a hearing, whereupon the
18 Department shall give notice to such person of the time and
19 place fixed for such hearing and shall hold a hearing in
20 conformity with the provisions of this Act and then issue its
21 final administrative decision in the matter to such person. In
22 the absence of such a protest within 20 days, the Department's
23 decision shall become final without any further determination
24 being made or notice given.

25 With respect to security other than bonds (upon which the
26 Department may sue in the event of a forfeiture), if the

1 taxpayer fails to pay, when due, any amount whose payment such
2 security guarantees, the Department shall, after such
3 liability is admitted by the taxpayer or established by the
4 Department through the issuance of a final assessment that has
5 become final under the law, convert the security which that
6 taxpayer has furnished into money for the State, after first
7 giving the taxpayer at least 10 days' written notice, by
8 registered or certified mail, to pay the liability or forfeit
9 such security to the Department. If the security consists of
10 stocks or bonds or other securities which are listed on a
11 public exchange, the Department shall sell such securities
12 through such public exchange. If the security consists of an
13 irrevocable bank letter of credit, the Department shall convert
14 the security in the manner provided for in the Uniform
15 Commercial Code. If the security consists of a bank certificate
16 of deposit, the Department shall convert the security into
17 money by demanding and collecting the amount of such bank
18 certificate of deposit from the bank which issued such
19 certificate. If the security consists of a type of stocks or
20 other securities which are not listed on a public exchange, the
21 Department shall sell such security to the highest and best
22 bidder after giving at least 10 days' notice of the date, time
23 and place of the intended sale by publication in the "State
24 Official Newspaper". If the Department realizes more than the
25 amount of such liability from the security, plus the expenses
26 incurred by the Department in converting the security into

1 money, the Department shall pay such excess to the taxpayer who
2 furnished such security, and the balance shall be paid into the
3 State Treasury.

4 The Department shall discharge any surety and shall release
5 and return any security deposited, assigned, pledged or
6 otherwise provided to it by a taxpayer under this Section
7 within 30 days after:

8 (1) such taxpayer becomes a Prior Continuous
9 Compliance taxpayer; or

10 (2) such taxpayer has ceased to collect receipts on
11 which he is required to remit tax to the Department, has
12 filed a final tax return, and has paid to the Department an
13 amount sufficient to discharge his remaining tax
14 liability, as determined by the Department, under this Act
15 and under every other State tax law or municipal or county
16 tax ordinance or resolution under which the certificate of
17 registration issued under this Act permits the registrant
18 to engage in business without registering separately under
19 such other law, ordinance or resolution. The Department
20 shall make a final determination of the taxpayer's
21 outstanding tax liability as expeditiously as possible
22 after his final tax return has been filed; if the
23 Department cannot make such final determination within 45
24 days after receiving the final tax return, within such
25 period it shall so notify the taxpayer, stating its reasons
26 therefor.

1 (Source: P.A. 90-491, eff. 1-1-98; 91-357, eff. 7-29-99.)

2 Section 5. The Cigarette Tax Act is amended by changing
3 Sections 1, 3, 3-10, 4, 20, and 21 and by adding Sections 3-15,
4 4d, and 4g as follows:

5 (35 ILCS 130/1) (from Ch. 120, par. 453.1)

6 Sec. 1. For the purposes of this Act:

7 "Brand Style" means a variety of cigarettes distinguished
8 by the tobacco used, tar and nicotine content, flavoring used,
9 size of the cigarette, filtration on the cigarette or
10 packaging. "Cigarette", means any ~~when used in this Act, shall~~
11 ~~be construed to mean: Any~~ roll for smoking made wholly or in
12 part of tobacco irrespective of size or shape and whether or
13 not such tobacco is flavored, adulterated or mixed with any
14 other ingredient, and the wrapper or cover of which is made of
15 paper or any other substance or material except tobacco.

16 "Contraband cigarettes" means:

17 (a) cigarettes that do not bear a required tax stamp
18 under this Act;

19 (b) cigarettes for which any required federal taxes
20 have not been paid;

21 (c) cigarettes that bear a counterfeit tax stamp;

22 (d) cigarettes that are manufactured, fabricated,
23 assembled, processed, packaged, or labeled by any person
24 other than (i) the owner of the trademark rights in the

1 cigarette brand or (ii) a person that is directly or
2 indirectly authorized by such owner; or

3 (e) cigarettes imported into the United States, or
4 otherwise distributed, in violation of the federal
5 Imported Cigarette Compliance Act of 2000 (Title IV of
6 Public Law 106-476).

7 "Person" means any natural individual, firm, partnership,
8 association, joint stock company, joint adventure, public or
9 private corporation, however formed, limited liability
10 company, or a receiver, executor, administrator, trustee,
11 guardian or other representative appointed by order of any
12 court.

13 "Prior Continuous Compliance Taxpayer" means any person
14 who is licensed under this Act and who, having been a licensee
15 for a continuous period of 5 years, is determined by the
16 Department not to have been either delinquent or deficient in
17 the payment of tax liability during that period or otherwise in
18 violation of this Act. Also, any taxpayer who has, as verified
19 by the Department, continuously complied with the condition of
20 his bond or other security under provisions of this Act for a
21 period of 5 consecutive years shall be considered to be a
22 "Prior continuous compliance taxpayer". In calculating the
23 consecutive period of time described herein for qualification
24 as a "prior continuous compliance taxpayer", a consecutive
25 period of time of qualifying compliance immediately prior to
26 the effective date of this amendatory Act of 1987 shall be

1 credited to any licensee who became licensed on or before the
2 effective date of this amendatory Act of 1987.

3 "Department" means the Department of Revenue.

4 "Sale" means any transfer, exchange or barter in any manner
5 or by any means whatsoever for a consideration, and includes
6 and means all sales made by any person.

7 "Original Package" means the individual packet, box or
8 other container whatsoever used to contain and to convey
9 cigarettes to the consumer.

10 "Distributor" means any and each of the following:

11 (1) Any person engaged in the business of selling
12 cigarettes in this State who brings or causes to be brought
13 into this State from without this State any original packages
14 of cigarettes, on which original packages there is no
15 authorized evidence underneath a sealed transparent wrapper
16 showing that the tax liability imposed by this Act has been
17 paid or assumed by the out-of-State seller of such cigarettes,
18 for sale or other disposition in the course of such business.

19 (2) Any person who makes, manufactures or fabricates
20 cigarettes in this State for sale in this State, except a
21 person who makes, manufactures or fabricates cigarettes as a
22 part of a correctional industries program for sale to residents
23 incarcerated in penal institutions or resident patients of a
24 State-operated mental health facility.

25 (3) Any person who makes, manufactures or fabricates
26 cigarettes outside this State, which cigarettes are placed in

1 original packages contained in sealed transparent wrappers,
2 for delivery or shipment into this State, and who elects to
3 qualify and is accepted by the Department as a distributor
4 under Section 4b of this Act.

5 "Place of business" shall mean and include any place where
6 cigarettes are sold or where cigarettes are manufactured,
7 stored or kept for the purpose of sale or consumption,
8 including any vessel, vehicle, airplane, train or vending
9 machine.

10 "Business" means any trade, occupation, activity or
11 enterprise engaged in for the purpose of selling cigarettes in
12 this State.

13 "Retailer" means any person who engages in the making of
14 transfers of the ownership of, or title to, cigarettes to a
15 purchaser for use or consumption and not for resale in any
16 form, for a valuable consideration. "Retailer" does not include
17 a person:

18 (1) who transfers to residents incarcerated in penal
19 institutions or resident patients of a State-operated
20 mental health facility ownership of cigarettes made,
21 manufactured, or fabricated as part of a correctional
22 industries program; or

23 (2) who transfers cigarettes to a not-for-profit
24 research institution that conducts tests concerning the
25 health effects of tobacco products and who does not offer
26 the cigarettes for resale.

1 "Retailer" shall be construed to include any person who
2 engages in the making of transfers of the ownership of, or
3 title to, cigarettes to a purchaser, for use or consumption by
4 any other person to whom such purchaser may transfer the
5 cigarettes without a valuable consideration, except a person
6 who transfers to residents incarcerated in penal institutions
7 or resident patients of a State-operated mental health facility
8 ownership of cigarettes made, manufactured or fabricated as
9 part of a correctional industries program.

10 "Stamp" or "stamps" mean the indicia required to be placed
11 on a pack of cigarettes that evidence payment of the tax on
12 cigarettes under Section 2 of this Act (35 ILCS 130/2), or the
13 indicia used to indicate that the cigarettes are intended for a
14 sale or distribution within this State that is exempt from
15 State tax under any applicable provision of law.

16 "Within this State" means within the exterior limits of the
17 State of Illinois and includes all territory within these
18 limits owned by or ceded to the United States of America.

19 "Related party" means any person that is associated with
20 any other person because he or she:

21 (a) is an officer or director of a business;

22 (b) is legally recognized as a partner in business; or

23 (c) is directly or indirectly controlled by another.

24 (Source: P.A. 95-462, eff. 8-27-07.)

25 (35 ILCS 130/3) (from Ch. 120, par. 453.3)

1 Sec. 3. Affixing tax stamp; remitting tax to the
2 Department. Payment of the taxes imposed by Section 2 of this
3 Act shall (except as hereinafter provided) be evidenced by
4 revenue tax stamps affixed to each original package of
5 cigarettes. Each distributor of cigarettes, before delivering
6 or causing to be delivered any original package of cigarettes
7 in this State to a purchaser, shall firmly affix a proper stamp
8 or stamps to each such package, or (in case of manufacturers of
9 cigarettes in original packages which are contained inside a
10 sealed transparent wrapper) shall imprint the required
11 language on the original package of cigarettes beneath such
12 outside wrapper, as hereinafter provided. Any stamp required by
13 this Act shall note whether the State tax under Section 2 of
14 this Act (35 ILCS 130/2) was paid or whether the pack of
15 cigarettes was not subject to such tax.

16 No stamp or imprint may be affixed to, or made upon, any
17 package of cigarettes unless that package complies with all
18 requirements of the federal Cigarette Labeling and Advertising
19 Act, 15 U.S.C. 1331 and following, for the placement of labels,
20 warnings, or any other information upon a package of cigarettes
21 that is sold within the United States. Under the authority of
22 Section 6, the Department shall revoke the license of any
23 distributor that is determined to have violated this paragraph.
24 A person may not affix a stamp on a package of cigarettes,
25 cigarette papers, wrappers, or tubes if that individual package
26 has been marked for export outside the United States with a

1 label or notice in compliance with Section 290.185 of Title 27
2 of the Code of Federal Regulations. It is not a defense to a
3 proceeding for violation of this paragraph that the label or
4 notice has been removed, mutilated, obliterated, or altered in
5 any manner.

6 Only distributors licensed under this Act or out-of-state
7 manufacturers holding a permit under this Act may receive
8 unstamped packs of cigarettes. Prior to shipment to another
9 person, each licensed distributor or out-of-state manufacturer
10 holding a permit shall apply a stamp to each pack of cigarettes
11 imported, distributed, or sold whether or not such cigarettes
12 are subject to State tax under Section 2 of this Act (35 ILCS
13 130/2) or any other provision of State law, provided that a
14 distributor or out-of-state manufacturer may only apply a tax
15 stamp to a pack of cigarettes purchased or obtained directly
16 from a licensed distributor or an out-of-state manufacturer
17 holding a permit. Only a licensed distributor or an
18 out-of-state manufacturer holding a permit may ship or
19 otherwise cause to be delivered unstamped packs of cigarettes
20 in, into, or from this State, provided that a licensed
21 distributor or an out-of-state manufacturer holding a permit
22 may transport unstamped packs of cigarettes to a facility,
23 wherever located, owned by such distributor or manufacturer.
24 Any person that ships or otherwise causes to be delivered
25 unstamped packs of cigarettes into, within, or from this State
26 shall ensure that the invoice or equivalent documentation and

1 the bill of lading or freight bill for the shipment identifies
2 the true name and address of the cosignor or seller, the true
3 name and address of the consignee or purchaser, and the quantity
4 by brand style of the cigarettes so transported, provided that
5 this Section shall not be construed as to impose any
6 requirement or liability upon any common or contract carrier.

7 The Department, or any person authorized by the Department,
8 shall sell such stamps only to persons holding valid licenses
9 as distributors under this Act. On and after July 1, 2003,
10 payment for such stamps must be made by means of electronic
11 funds transfer. The Department may refuse to sell stamps to any
12 person who does not comply with the provisions of this Act.
13 Beginning on the effective date of this amendatory Act of the
14 92nd General Assembly and through June 30, 2002, persons
15 holding valid licenses as distributors may purchase cigarette
16 tax stamps up to an amount equal to 115% of the distributor's
17 average monthly cigarette tax stamp purchases over the 12
18 calendar months prior to the effective date of this amendatory
19 Act of the 92nd General Assembly.

20 Prior to December 1, 1985, the Department shall allow a
21 distributor 21 days in which to make final payment of the
22 amount to be paid for such stamps, by allowing the distributor
23 to make payment for the stamps at the time of purchasing them
24 with a draft which shall be in such form as the Department
25 prescribes, and which shall be payable within 21 days
26 thereafter: Provided that such distributor has filed with the

1 Department, and has received the Department's approval of, a
2 bond, which is in addition to the bond required under Section 4
3 of this Act, payable to the Department in an amount equal to
4 80% of such distributor's average monthly tax liability to the
5 Department under this Act during the preceding calendar year or
6 \$500,000, whichever is less. The Bond shall be joint and
7 several and shall be in the form of a surety company bond in
8 such form as the Department prescribes, or it may be in the
9 form of a bank certificate of deposit or bank letter of credit.
10 The bond shall be conditioned upon the distributor's payment of
11 amount of any 21-day draft which the Department accepts from
12 that distributor for the delivery of stamps to that distributor
13 under this Act. The distributor's failure to pay any such
14 draft, when due, shall also make such distributor automatically
15 liable to the Department for a penalty equal to 25% of the
16 amount of such draft.

17 On and after December 1, 1985 and until July 1, 2003, the
18 Department shall allow a distributor 30 days in which to make
19 final payment of the amount to be paid for such stamps, by
20 allowing the distributor to make payment for the stamps at the
21 time of purchasing them with a draft which shall be in such
22 form as the Department prescribes, and which shall be payable
23 within 30 days thereafter, and beginning on January 1, 2003 and
24 thereafter, the draft shall be payable by means of electronic
25 funds transfer: Provided that such distributor has filed with
26 the Department, and has received the Department's approval of,

1 a bond, which is in addition to the bond required under Section
2 4 of this Act, payable to the Department in an amount equal to
3 150% of such distributor's average monthly tax liability to the
4 Department under this Act during the preceding calendar year or
5 \$750,000, whichever is less, except that as to bonds filed on
6 or after January 1, 1987, such additional bond shall be in an
7 amount equal to 100% of such distributor's average monthly tax
8 liability under this Act during the preceding calendar year or
9 \$750,000, whichever is less. The bond shall be joint and
10 several and shall be in the form of a surety company bond in
11 such form as the Department prescribes, or it may be in the
12 form of a bank certificate of deposit or bank letter of credit.
13 The bond shall be conditioned upon the distributor's payment of
14 the amount of any 30-day draft which the Department accepts
15 from that distributor for the delivery of stamps to that
16 distributor under this Act. The distributor's failure to pay
17 any such draft, when due, shall also make such distributor
18 automatically liable to the Department for a penalty equal to
19 25% of the amount of such draft.

20 Every prior continuous compliance taxpayer shall be exempt
21 from all requirements under this Section concerning the
22 furnishing of such bond, as defined in this Section, as a
23 condition precedent to his being authorized to engage in the
24 business licensed under this Act. This exemption shall continue
25 for each such taxpayer until such time as he may be determined
26 by the Department to be delinquent in the filing of any

1 returns, or is determined by the Department (either through the
2 Department's issuance of a final assessment which has become
3 final under the Act, or by the taxpayer's filing of a return
4 which admits tax to be due that is not paid) to be delinquent
5 or deficient in the paying of any tax under this Act, at which
6 time that taxpayer shall become subject to the bond
7 requirements of this Section and, as a condition of being
8 allowed to continue to engage in the business licensed under
9 this Act, shall be required to furnish bond to the Department
10 in such form as provided in this Section. Such taxpayer shall
11 furnish such bond for a period of 2 years, after which, if the
12 taxpayer has not been delinquent in the filing of any returns,
13 or delinquent or deficient in the paying of any tax under this
14 Act, the Department may reinstate such person as a prior
15 continuance compliance taxpayer. Any taxpayer who fails to pay
16 an admitted or established liability under this Act may also be
17 required to post bond or other acceptable security with the
18 Department guaranteeing the payment of such admitted or
19 established liability.

20 Any person aggrieved by any decision of the Department
21 under this Section may, within the time allowed by law, protest
22 and request a hearing, whereupon the Department shall give
23 notice and shall hold a hearing in conformity with the
24 provisions of this Act and then issue its final administrative
25 decision in the matter to such person. In the absence of such a
26 protest filed within the time allowed by law, the Department's

1 decision shall become final without any further determination
2 being made or notice given.

3 The Department shall discharge any surety and shall release
4 and return any bond or security deposited, assigned, pledged,
5 or otherwise provided to it by a taxpayer under this Section
6 within 30 days after:

7 (1) Such taxpayer becomes a prior continuous compliance
8 taxpayer; or

9 (2) Such taxpayer has ceased to collect receipts on which
10 he is required to remit tax to the Department, has filed a
11 final tax return, and has paid to the Department an amount
12 sufficient to discharge his remaining tax liability as
13 determined by the Department under this Act. The Department
14 shall make a final determination of the taxpayer's outstanding
15 tax liability as expeditiously as possible after his final tax
16 return has been filed. If the Department cannot make such final
17 determination within 45 days after receiving the final tax
18 return, within such period it shall so notify the taxpayer,
19 stating its reasons therefor.

20 The Department may authorize distributors to affix revenue
21 tax stamps by imprinting tax meter stamps upon original
22 packages of cigarettes. The Department shall adopt rules and
23 regulations relating to the imprinting of such tax meter stamps
24 as will result in payment of the proper taxes as herein
25 imposed. No distributor may affix revenue tax stamps to
26 original packages of cigarettes by imprinting tax meter stamps

1 thereon unless such distributor has first obtained permission
2 from the Department to employ this method of affixation. The
3 Department shall regulate the use of tax meters and may, to
4 assure the proper collection of the taxes imposed by this Act,
5 revoke or suspend the privilege, theretofore granted by the
6 Department to any distributor, to imprint tax meter stamps upon
7 original packages of cigarettes.

8 Illinois cigarette manufacturers who place their
9 cigarettes in original packages which are contained inside a
10 sealed transparent wrapper, and similar out-of-State cigarette
11 manufacturers who elect to qualify and are accepted by the
12 Department as distributors under Section 4b of this Act, shall
13 pay the taxes imposed by this Act by remitting the amount
14 thereof to the Department by the 5th day of each month covering
15 cigarettes shipped or otherwise delivered in Illinois to
16 purchasers during the preceding calendar month. Such
17 manufacturers of cigarettes in original packages which are
18 contained inside a sealed transparent wrapper, before
19 delivering such cigarettes or causing such cigarettes to be
20 delivered in this State to purchasers, shall evidence their
21 obligation to remit the taxes due with respect to such
22 cigarettes by imprinting language to be prescribed by the
23 Department on each original package of such cigarettes
24 underneath the sealed transparent outside wrapper of such
25 original package, in such place thereon and in such manner as
26 the Department may designate. Such imprinted language shall

1 acknowledge the manufacturer's payment of or liability for the
2 tax imposed by this Act with respect to the distribution of
3 such cigarettes.

4 A distributor shall not affix, or cause to be affixed, any
5 stamp or imprint to a package of cigarettes, as provided for in
6 this Section, if the tobacco product manufacturer, as defined
7 in Section 10 of the Tobacco Product Manufacturers' Escrow Act,
8 that made or sold the cigarettes has failed to become a
9 participating manufacturer, as defined in subdivision (a)(1)
10 of Section 15 of the Tobacco Product Manufacturers' Escrow Act,
11 or has failed to create a qualified escrow fund for any
12 cigarettes manufactured by the tobacco product manufacturer
13 and sold in this State or otherwise failed to bring itself into
14 compliance with subdivision (a)(2) of Section 15 of the Tobacco
15 Product Manufacturers' Escrow Act.

16 (Source: P.A. 92-322, eff. 1-1-02; 92-536, eff. 6-6-02; 92-737,
17 eff. 7-25-02; 93-22, eff. 6-20-03.)

18 (35 ILCS 130/3-10)

19 Sec. 3-10. Cigarette enforcement.

20 (a) Prohibitions. It is unlawful for any person:

21 (1) to sell or distribute in this State; to acquire,
22 hold, own, possess, or transport, for sale or distribution
23 in this State; or to import, or cause to be imported into
24 this State for sale or distribution in this State:

25 (A) any cigarettes the package of which:

1 (i) bears any statement, label, stamp,
2 sticker, or notice indicating that the
3 manufacturer did not intend the cigarettes to be
4 sold, distributed, or used in the United States,
5 including but not limited to labels stating "For
6 Export Only", "U.S. Tax Exempt", "For Use Outside
7 U.S.", or similar wording; or

8 (ii) does not comply with:

9 (aa) all requirements imposed by or
10 pursuant to federal law regarding warnings and
11 other information on packages of cigarettes
12 manufactured, packaged, or imported for sale,
13 distribution, or use in the United States,
14 including but not limited to the precise
15 warning labels specified in the federal
16 Cigarette Labeling and Advertising Act, 15
17 U.S.C. 1333; and

18 (bb) all federal trademark and copyright
19 laws;

20 (B) any cigarettes imported into the United States
21 in violation of 26 U.S.C. 5754 or any other federal
22 law, or implementing federal regulations;

23 (C) any cigarettes that such person otherwise
24 knows or has reason to know the manufacturer did not
25 intend to be sold, distributed, or used in the United
26 States; or

1 (D) any cigarettes for which there has not been
2 submitted to the Secretary of the U.S. Department of
3 Health and Human Services the list or lists of the
4 ingredients added to tobacco in the manufacture of the
5 cigarettes required by the federal Cigarette Labeling
6 and Advertising Act, 15 U.S.C. 1335a;

7 (2) to alter the package of any cigarettes, prior to
8 sale or distribution to the ultimate consumer, so as to
9 remove, conceal, or obscure:

10 (A) any statement, label, stamp, sticker, or
11 notice described in subdivision (a)(1)(A)(i) of this
12 Section;

13 (B) any health warning that is not specified in, or
14 does not conform with the requirements of, the federal
15 Cigarette Labeling and Advertising Act, 15 U.S.C.
16 1333; ~~or~~

17 (3) to affix any stamp required pursuant to this Act to
18 the package of any cigarettes described in subdivision
19 (a)(1) of this Section or altered in violation of
20 subdivision (a)(2); ~~or~~

21 (4) to knowingly possess, or possess for sale,
22 contraband cigarettes.

23 (b) Documentation. On the first business day of each month,
24 each person licensed to affix the State tax stamp to cigarettes
25 shall file with the Department, for all cigarettes imported
26 into the United States to which the person has affixed the tax

1 stamp in the preceding month:

2 (1) a copy of:

3 (A) the permit issued pursuant to the Internal
4 Revenue Code, 26 U.S.C. 5713, to the person importing
5 the cigarettes into the United States allowing the
6 person to import the cigarettes; and

7 (B) the customs form containing, with respect to
8 the cigarettes, the internal revenue tax information
9 required by the U.S. Bureau of Alcohol, Tobacco and
10 Firearms;

11 (2) a statement, signed by the person under penalty of
12 perjury, which shall be treated as confidential by the
13 Department and exempt from disclosure under the Freedom of
14 Information Act, identifying the brand and brand styles of
15 all such cigarettes, the quantity of each brand style of
16 such cigarettes, the supplier of such cigarettes, and the
17 person or persons, if any, to whom such cigarettes have
18 been conveyed for resale; and a separate statement, signed
19 by the individual under penalty of perjury, which shall not
20 be treated as confidential or exempt from disclosure,
21 separately identifying the brands and brand styles of such
22 cigarettes; and

23 (3) a statement, signed by an officer of the
24 manufacturer or importer under penalty of perjury,
25 certifying that the manufacturer or importer has complied
26 with:

1 (A) the package health warning and ingredient
2 reporting requirements of the federal Cigarette
3 Labeling and Advertising Act, 15 U.S.C. 1333 and 1335a,
4 with respect to such cigarettes; and

5 (B) the provisions of Exhibit T of the Master
6 Settlement Agreement entered in the case of People of
7 the State of Illinois v. Philip Morris, et al. (Circuit
8 Court of Cook County, No. 96-L13146), including a
9 statement indicating whether the manufacturer is, or
10 is not, a participating tobacco manufacturer within
11 the meaning of Exhibit T.

12 (c) Administrative sanctions.

13 (1) Upon finding that a distributor has committed any
14 of the acts prohibited by subsection (a), knowing or having
15 reason to know that he or she has done so, or has failed to
16 comply with any requirement of subsection (b), the
17 Department may revoke or suspend the license or licenses of
18 any distributor pursuant to the procedures set forth in
19 Section 6 and impose on the distributor a civil penalty in
20 an amount not to exceed the greater of 500% of the retail
21 value of the cigarettes involved or \$5,000.

22 (2) Cigarettes that are acquired, held, owned,
23 possessed, transported in, imported into, or sold or
24 distributed in this State in violation of this Section
25 shall be deemed contraband under this Act and are subject
26 to seizure and forfeiture as provided in this Act, and all

1 such cigarettes seized and forfeited shall be destroyed.
2 Such cigarettes shall be deemed contraband whether the
3 violation of this Section is knowing or otherwise.

4 (d) Unfair trade practices. A violation of subsection (a)
5 or subsection (b) of this Section shall constitute an unlawful
6 practice as provided in the Consumer Fraud and Deceptive
7 Business Practices Act.

8 (e) Unfair cigarette sales. For purposes of the Trademark
9 Registration and Protection Act and the Counterfeit Trademark
10 Act, cigarettes imported or reimported into the United States
11 for sale or distribution under any trade name, trade dress, or
12 trademark that is the same as, or is confusingly similar to,
13 any trade name, trade dress, or trademark used for cigarettes
14 manufactured in the United States for sale or distribution in
15 the United States shall be presumed to have been purchased
16 outside of the ordinary channels of trade.

17 (f) General provisions.

18 (1) This Section shall be enforced by the Department;
19 provided that, at the request of the Director of Revenue or
20 the Director's duly authorized agent, the State police and
21 all local police authorities shall enforce the provisions
22 of this Section. The Attorney General has concurrent power
23 with the State's Attorney of any county to enforce this
24 Section.

25 (2) For the purpose of enforcing this Section, the
26 Director of Revenue and any agency to which the Director

1 has delegated enforcement responsibility pursuant to
2 subdivision (f)(1) may request information from any State
3 or local agency and may share information with and request
4 information from any federal agency and any agency of any
5 other state or any local agency of any other state.

6 (3) In addition to any other remedy provided by law,
7 including enforcement as provided in subdivision (a)(1),
8 any person may bring an action for appropriate injunctive
9 or other equitable relief for a violation of this Section;
10 actual damages, if any, sustained by reason of the
11 violation; and, as determined by the court, interest on the
12 damages from the date of the complaint, taxable costs, and
13 reasonable attorney's fees. If the trier of fact finds that
14 the violation is flagrant, it may increase recovery to an
15 amount not in excess of 3 times the actual damages
16 sustained by reason of the violation.

17 (g) Definitions. As used in this Section:

18 "Importer" means that term as defined in 26 U.S.C. 5702(1).

19 "Package" means that term as defined in 15 U.S.C. 1332(4).

20 (h) Applicability.

21 (1) This Section does not apply to:

22 (A) cigarettes allowed to be imported or brought
23 into the United States for personal use; and

24 (B) cigarettes sold or intended to be sold as
25 duty-free merchandise by a duty-free sales enterprise
26 in accordance with the provisions of 19 U.S.C. 1555(b)

1 and any implementing regulations; except that this
2 Section shall apply to any such cigarettes that are
3 brought back into the customs territory for resale
4 within the customs territory.

5 (2) The penalties provided in this Section are in
6 addition to any other penalties imposed under other
7 provision of law.

8 (Source: P.A. 91-810, eff. 6-13-00.)

9 (35 ILCS 130/3-15 new)

10 Sec. 3-15. Criminal and civil penalties.

11 (a) Civil penalties.

12 (1) Distributors and manufacturers. Except as
13 otherwise provided in this Section, a first violation of
14 any provision of this Act by a manufacturer or distributor
15 shall, in addition to any other penalty provided in this
16 Act, be punishable by a fine of \$5,000 for each separate
17 violation, which shall be recovered, with costs of suit, in
18 a civil action. Any subsequent violation of any provision
19 of this Act by a manufacturer or distributor shall be
20 punishable by a fine of \$10,000 for each separate
21 violation. In no case shall the fine imposed under this
22 paragraph exceed 10 times the retail value of the
23 cigarettes.

24 (2) Retailers. Except as otherwise provided in this
25 Section, a first violation of any provision of this Act by

1 a retailer shall, in addition to any other penalty provided
2 in this Act, be punishable by a fine of \$1,000 for each
3 separate violation, which shall be recovered, with costs of
4 suit, in a civil action. Any subsequent violation of any
5 provision of this Act by a retailer shall be punishable by
6 a fine of \$2,000 for each separate violation. In no case
7 shall the fine imposed under this paragraph exceed 10 times
8 the retail value of the cigarettes.

9 (3) Failure to pay tax. Any person that fails to pay
10 any tax imposed by this State at the time prescribed by law
11 or regulations shall, in addition to any other penalty
12 provided in this Act, be liable to a penalty of 3 times the
13 tax due but unpaid, to help defray the costs of detection
14 and investigation and any consequential damages. In no case
15 shall the fine imposed under this paragraph exceed 10 times
16 the retail value of the cigarettes.

17 (4) Civil forfeiture.

18 (A) All cigarettes which are held for sale or
19 distribution within this State in violation of the
20 requirements of this Act shall be forfeited to this
21 State. All cigarettes forfeited to this State under
22 this Act shall be destroyed. The Department may, prior
23 to any destruction of cigarettes, permit the true
24 holder of the trademark rights in the cigarette brand
25 to inspect such contraband cigarettes, in order to
26 assist the Department in any investigation regarding

1 such cigarettes.

2 (B) Any person that, with intent to defraud the
3 State:

4 (i) fails to keep or make any record, return,
5 report, or inventory required by this Act;

6 (ii) keeps or makes any false or fraudulent
7 record, return, report, or inventory required by
8 this Act;

9 (iii) refuses to pay any tax imposed by this
10 Act; or

11 (iv) attempts in any manner to evade or defeat
12 the requirements of this Act shall forfeit to the
13 State all fixtures, equipment, and other materials
14 with a substantial connection to such conduct.

15 (C) A distributor or retailer shall not be required
16 to forfeit fixtures, equipment, and all other
17 materials and personal property on the premises if such
18 distributor or retailer:

19 (i) acted in good faith;

20 (ii) was not involved in or aware of the
21 unlawful activity prohibited by this Act; and

22 (iii) did all that reasonably could be
23 expected under the circumstances to prevent
24 violations of this Act.

25 (5) Notwithstanding any other provision of law, the
26 Department may use proceeds from civil penalties imposed

1 under this Section to offset necessary and reasonable
2 expenses incurred in the detection and investigation of the
3 failure of any person to pay any cigarette tax imposed by
4 this State.

5 (b) Criminal penalties.

6 (1) Fraudulent offenses. Whoever intentionally fails
7 to comply with any of the requirements of this Act or
8 regulations prescribed hereunder shall, in addition to any
9 other penalty provided in this Act, for each such offense,
10 be guilty of a Class 3 felony.

11 (2) Knowing offenses. Whoever, knowingly violates any
12 of the requirements of this Act or regulations prescribed
13 hereunder shall, in addition to any other penalty provided
14 in this Act, for each such offense, be guilty of a Class 4
15 felony.

16 (3) Penalties for contraband. Notwithstanding any
17 other provision of law, the possession for sale of
18 contraband cigarettes by a manufacturer, distributor, or
19 retailer shall be punishable as follows:

20 (A) A person who commits a first knowing violation
21 shall be guilty of a Class 4 felony.

22 (B) A person who commits a subsequent knowing
23 violation shall be guilty of a Class 3 felony and shall
24 have his or her license, permit, or sub-certificate
25 revoked by the Department. In no case shall the fine
26 imposed under this paragraph exceed ten times the

1 retail value of the cigarettes.

2 (4) For purposes of this Section, the term contraband
3 cigarettes includes cigarettes that have false
4 manufacturing labels or packs of cigarettes bearing
5 counterfeit tax stamps. Any contraband cigarette seized by
6 this State shall be destroyed. The Department may, prior to
7 any destruction of cigarettes, permit the true holder of
8 the trademark rights in the cigarette brand to inspect such
9 contraband cigarettes, in order to assist the Department in
10 any investigation regarding such cigarettes.

11 (5) The penalties provided in paragraph (3) shall not
12 apply where a licensed distributor is in possession of
13 contraband cigarettes as a result of such cigarettes being
14 returned to the distributor by a retailer if such
15 distributor promptly notified appropriate law enforcement
16 authorities.

17 (6) Criminal forfeiture.

18 (A) Notwithstanding any other provision of law,
19 the possession for sale of contraband cigarettes by a
20 manufacturer, distributor, or retailer shall, after
21 notice and hearing, result in the forfeiture to this
22 State of the product and related machinery and
23 equipment used in the production of contraband
24 cigarettes, or to falsely mark cigarettes to reflect
25 the payment of excise taxes.

26 (B) The knowing sale or possession for sale of

1 contraband cigarettes shall, after notice and hearing,
2 result in the seizure of all related machinery and
3 equipment.

4 (C) All cigarettes forfeited to this State under
5 this Section shall be destroyed. The Department may,
6 prior to any destruction of cigarettes, permit the true
7 holder of the trademark rights in the cigarette brand
8 to inspect such contraband cigarettes, in order to
9 assist the Department in any investigation regarding
10 such cigarettes.

11 (35 ILCS 130/4) (from Ch. 120, par. 453.4)

12 Sec. 4. Distributor's license. No person may engage in
13 business as a distributor of cigarettes in this State within
14 the meaning of the first 2 definitions of distributor in
15 Section 1 of this Act without first having obtained a license
16 therefor from the Department. Application for license shall be
17 made to the Department in form as furnished and prescribed by
18 the Department. Each applicant for a license under this Section
19 shall furnish to the Department on the form signed and verified
20 by the applicant under penalty of perjury the following
21 information:

22 (a) The name and address of the applicant;

23 (b) The address of the location at which the applicant
24 proposes to engage in business as a distributor of
25 cigarettes in this State;

1 (c) Such other additional information as the
2 Department may lawfully require by its rules and
3 regulations.

4 The annual license fee payable to the Department for each
5 distributor's license shall be \$250. The purpose of such annual
6 license fee is to defray the cost, to the Department, of
7 serializing cigarette tax stamps. Each applicant for license
8 shall pay such fee to the Department at the time of submitting
9 his application for license to the Department.

10 Every applicant who is required to procure a distributor's
11 license shall file with his application a joint and several
12 bond. Such bond shall be executed to the Department of Revenue,
13 with good and sufficient surety or sureties residing or
14 licensed to do business within the State of Illinois, in the
15 amount of \$2,500, conditioned upon the true and faithful
16 compliance by the licensee with all of the provisions of this
17 Act. Such bond, or a reissue thereof, or a substitute therefor,
18 shall be kept in effect during the entire period covered by the
19 license. A separate application for license shall be made, a
20 separate annual license fee paid, and a separate bond filed,
21 for each place of business at which a person who is required to
22 procure a distributor's license under this Section proposes to
23 engage in business as a distributor in Illinois under this Act.

24 The following are ineligible to receive a distributor's
25 license under this Act:

26 (1) a person who is not of good character and

1 reputation in the community in which he resides;

2 (2) a person who has been convicted of a felony
3 under any Federal or State law, if the Department,
4 after investigation and a hearing, if requested by the
5 applicant, determines that such person has not been
6 sufficiently rehabilitated to warrant the public
7 trust;

8 (3) a corporation, if any officer, manager or
9 director thereof, or any stockholder or stockholders
10 owning in the aggregate more than 5% of the stock of
11 such corporation, would not be eligible to receive a
12 license under this Act for any reason.

13 (4) a person, or any person who owns more than 15
14 percent of the ownership interests in a person or a
15 related party who:

16 (a) owes, at the time of application, \$500 or
17 more in delinquent cigarette taxes that have been
18 determined by law to be due and unpaid, unless the
19 license applicant has entered into an agreement
20 approved by the Department to pay the amount due;

21 (b) had a license under this Act revoked within
22 the past two years by the Department for willful
23 misconduct relating to stolen or contraband
24 cigarettes or has been convicted of a State or
25 federal crime, punishable by imprisonment of one
26 year or more, relating to stolen or contraband

1 cigarettes;

2 (c) is a distributor who manufactures
3 cigarettes who is neither (i) a participating
4 manufacturer as defined in subsection II(jj) of
5 the "Master Settlement Agreement" as defined in
6 Sections 10 of the Tobacco Products Manufacturers'
7 Escrow Act and the Tobacco Products Manufacturers'
8 Escrow Enforcement Act of 2003 (30 ILCS 168/10 and
9 30 ILCS 167/10); nor (ii) in full compliance with
10 Tobacco Products Manufacturers' Escrow Act and the
11 Tobacco Products Manufacturers' Escrow Enforcement
12 Act of 2003 (30 ILCS 168/ and 30 ILCS 167/);

13 (d) has been found to have willfully imported
14 or caused to be imported into the United States for
15 sale or distribution any cigarette in violation of
16 19 U.S.C. 1681a;

17 (e) has been found to have willfully imported
18 or caused to be imported into the United States for
19 sale or distribution or manufactured for sale or
20 distribution in the United States any cigarette
21 that does not fully comply with the Federal
22 Cigarette Labeling and Advertising Act (15 U.S.C.
23 1331, et seq.); or

24 (f) has willfully made a material false
25 statement in the application or has willfully
26 failed to produce records required to be

1 maintained by this Act.

2 The Department, upon receipt of an application, license fee
3 and bond in proper form, from a person who is eligible to
4 receive a distributor's license under this Act, shall issue to
5 such applicant a license in form as prescribed by the
6 Department, which license shall permit the applicant to which
7 it is issued to engage in business as a distributor at the
8 place shown in his application. All licenses issued by the
9 Department under this Act shall be valid for not to exceed one
10 year after issuance unless sooner revoked, canceled or
11 suspended as provided in this Act. No license issued under this
12 Act is transferable or assignable. Such license shall be
13 conspicuously displayed in the place of business conducted by
14 the licensee in Illinois under such license. No distributor
15 licensee acquires any vested interest or compensable property
16 right in a license issued under this Act.

17 A licensed distributor shall notify the Department of any
18 change in the information contained on the application form,
19 including any change in ownership and shall do so within 30
20 days after any such change.

21 Any person aggrieved by any decision of the Department
22 under this Section may, within 20 days after notice of the
23 decision, protest and request a hearing. Upon receiving a
24 request for a hearing, the Department shall give notice to the
25 person requesting the hearing of the time and place fixed for
26 the hearing and shall hold a hearing in conformity with the

1 provisions of this Act and then issue its final administrative
2 decision in the matter to that person. In the absence of a
3 protest and request for a hearing within 20 days, the
4 Department's decision shall become final without any further
5 determination being made or notice given.

6 (Source: P.A. 91-901, eff. 1-1-01; 92-322, eff. 1-1-02.)

7 (35 ILCS 130/4d new)

8 Sec. 4d. Transactions only with licensed distributors,
9 out-of-state manufacturers holding a permit, and retailers
10 holding a certificate of registration. A distributor or
11 manufacturer may sell or distribute cigarettes to a person
12 located or doing business within this State only if such person
13 is a licensed distributor or retailer holding a certificate of
14 registration. A retailer may only sell cigarettes obtained from
15 a licensed distributor or an out-of-state manufacturer holding
16 a permit.

17 (35 ILCS 130/4g new)

18 Sec. 4g. Maintenance of and publication of list of
19 licensees and permittees whose licenses or permits have been
20 suspended, cancelled, or revoked. Within 30 days after the
21 effective date of this amendatory Act of the 95th General
22 Assembly, the Department shall create and maintain a website
23 setting forth the identity of all persons whose licenses or
24 permits have been suspended, cancelled, or revoked under this

1 Act within the past 3 years, itemized by type of license,
2 permit, or and shall update the website within 30 days after
3 the date the Department suspends, cancels, or revokes any
4 person's license or permit. The Department shall, at a minimum,
5 include on the website the legal name, the business locations,
6 the unique numerical identifier issued prior to the suspension,
7 cancellation, or revocation of the license or permit, and any
8 name under which such licensee or permittee regularly does
9 business.

10 (35 ILCS 130/20) (from Ch. 120, par. 453.20)

11 Sec. 20. Whenever any peace officer of the State or any
12 duly authorized officer or employee of the Department shall
13 have reason to believe that any violation of this Act has
14 occurred and that the person so violating the Act has in his,
15 her or its possession any original package of cigarettes, not
16 tax stamped or tax imprinted underneath the sealed transparent
17 wrapper of such original package as required by this Act, or
18 any vending device containing such original packages to which
19 stamps have not been affixed, or on which an authorized
20 substitute for stamps has not been imprinted underneath the
21 sealed transparent wrapper of such original packages, as
22 required by this Act, he may file or cause to be filed his
23 complaint in writing, verified by affidavit, with any court
24 within whose jurisdiction the premises to be searched are
25 situated, stating the facts upon which such belief is founded,

1 the premises to be searched, and the property to be seized, and
2 procure a search warrant and execute the same. Upon the
3 execution of such search warrant, the peace officer, or officer
4 or employee of the Department, executing such search warrant
5 shall make due return thereof to the court issuing the same,
6 together with an inventory of the property taken thereunder.
7 The court shall thereupon issue process against the owner of
8 such property if he is known; otherwise, such process shall be
9 issued against the person in whose possession the property so
10 taken is found, if such person is known. In case of inability
11 to serve such process upon the owner or the person in
12 possession of the property at the time of its seizure, as
13 hereinbefore provided, notice of the proceedings before the
14 court shall be given as required by the statutes of the State
15 governing cases of Attachment. Upon the return of the process
16 duly served or upon the posting or publishing of notice made,
17 as hereinabove provided, the court or jury, if a jury shall be
18 demanded, shall proceed to determine whether or not such
19 property so seized was held or possessed in violation of this
20 Act, or whether, if a vending device has been so seized, it
21 contained at the time of its seizure original packages not tax
22 stamped or tax imprinted underneath the sealed transparent
23 wrapper of such original packages as required by this Act. In
24 case of a finding that the original packages seized were not
25 tax stamped or tax imprinted underneath the sealed transparent
26 wrapper of such original packages in accordance with the

1 provisions of this Act, or that any vending device so seized
2 contained at the time of its seizure original packages not tax
3 stamped or tax imprinted underneath the sealed transparent
4 wrapper of such original packages in accordance with the
5 provisions of this Act, judgment shall be entered confiscating
6 and forfeiting the property to the State and ordering its
7 delivery to the Department, and in addition thereto, the court
8 shall have power to tax and assess the costs of the
9 proceedings.

10 When any original packages or any cigarette vending device
11 shall have been declared forfeited to the State by any court,
12 as hereinbefore provided, and when such confiscated and
13 forfeited property shall have been delivered to the Department,
14 as provided in this Act, the said Department shall destroy ~~sell~~
15 such property. The Department may, prior to any destruction of
16 cigarettes, permit the true holder of the trademark rights in
17 the cigarette brand to inspect such contraband cigarettes, in
18 order to assist the Department in any investigation regarding
19 such cigarettes. ~~for the best price obtainable and shall~~
20 ~~forthwith pay over the proceeds of such sale to the State~~
21 ~~Treasurer; provided, however, that if the value of such~~
22 ~~property to be sold at any one time shall be \$500 or more, such~~
23 ~~property shall be sold only to the highest and best bidder on~~
24 ~~such terms and conditions and on open competitive bidding after~~
25 ~~public advertisement, in such manner and for such terms as the~~
26 ~~Department, by rule, may prescribe.~~

1 ~~Upon making such a sale of original packages of cigarettes~~
2 ~~which were not tax stamped or tax imprinted underneath the~~
3 ~~sealed transparent wrapper of such original packages as~~
4 ~~required by this Act, the Department shall affix a distinctive~~
5 ~~stamp to each of the original packages so sold indicating that~~
6 ~~the same are sold pursuant to the provisions of this Section.~~

7 (Source: Laws 1965, p. 3707.)

8 (35 ILCS 130/21) (from Ch. 120, par. 453.21)

9 Sec. 21. Destruction or use of forfeited property.

10 (a) When any original packages of cigarettes or any
11 cigarette vending device shall have been declared forfeited to
12 the State by the Department, as provided in Section 18a of this
13 Act, and when all proceedings for the judicial review of the
14 Department's decision have terminated, the Department shall,
15 to the extent that its decision is sustained on review,
16 ~~destroy,~~ or maintain and use such property in an undercover
17 capacity, ~~or sell such property for the best price obtainable~~
18 ~~and shall forthwith pay over the proceeds of such sale to the~~
19 ~~State Treasurer. If the value of such property to be sold at~~
20 ~~any one time is \$500 or more, however, such property shall be~~
21 ~~sold only to the highest and best bidder on such terms and~~
22 ~~conditions and on open competitive bidding after public~~
23 ~~advertisement, in such manner and for such terms as the~~
24 ~~Department, by rule, may prescribe.~~

25 (b) The Department may, prior to any destruction of

1 cigarettes, permit the true holder of the trademark rights in
2 the cigarette brand to inspect such contraband cigarettes in
3 order to assist the Department in any investigation regarding
4 such cigarettes. ~~If no complaint for review, as provided in~~
5 ~~Section 8 of this Act, has been filed within the time required~~
6 ~~by the Administrative Review Law, and if no stay order has been~~
7 ~~entered thereunder, the Department shall proceed to sell the~~
8 ~~property for the best price obtainable and shall forthwith pay~~
9 ~~over the proceeds of such sale to the State Treasurer. If the~~
10 ~~value of such property to be sold at any one time is \$500 or~~
11 ~~more, however, such property shall be sold only to the highest~~
12 ~~and best bidder on such terms and conditions and on open~~
13 ~~competitive bidding after public advertisement, in such manner~~
14 ~~and for such terms as the Department, by rule, may prescribe.~~

15 ~~(c) Upon making a sale of unstamped original packages of~~
16 ~~cigarettes as provided in this Section, the Department shall~~
17 ~~affix a distinctive stamp to each of the original packages so~~
18 ~~sold indicating that the same are sold under this Section.~~

19 ~~(d) Notwithstanding the foregoing, any cigarettes seized~~
20 ~~under this Act or under the Cigarette Use Tax Act may, at the~~
21 ~~discretion of the Director of Revenue, be distributed to any~~
22 ~~eleemosynary institution within the State of Illinois.~~

23 (Source: P.A. 94-776, eff. 5-19-06.)

24 (35 ILCS 130/9c rep.)

25 (35 ILCS 130/28 rep.)

1 Section 10. The Cigarette Tax Act is amended by repealing
2 Sections 9c and 28.

3 Section 15. The Prevention of Cigarette Sales to Minors Act
4 is amended by changing Sections 5 and 10 and by adding Sections
5 2, 6, 7, 8, 9, 20, 25, and 30 as follows:

6 (720 ILCS 678/2 new)

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

8 "Clear and conspicuous statement" means the statement is of
9 sufficient type size to be clearly readable by the recipient of
10 the communication.

11 "Consumer" means an individual who acquires or seeks to
12 acquire cigarettes for personal use.

13 "Delivery sale" means any sale of cigarettes to a consumer
14 if:

15 (a) the consumer submits the order for such sale by
16 means of a telephone or other method of voice transmission,
17 the mails, or the Internet or other online service, or the
18 seller is otherwise not in the physical presence of the
19 buyer when the request for purchase or order is made; or

20 (b) the cigarettes are delivered by use of a common
21 carrier, private delivery service, or the mails, or the
22 seller is not in the physical presence of the buyer when
23 the buyer obtains possession of the cigarettes.

24 "Delivery service" means any person (other than a person

1 that makes a delivery sale) who delivers to the consumer the
2 cigarettes sold in a delivery sale.

3 "Department" means the Department of Revenue.

4 "Government-issued identification" means a State driver's
5 license, State identification card, passport, a military
6 identification or an official naturalization or immigration
7 document, such as an alien registration recipient card
8 (commonly known as a "green card") or an immigrant visa.

9 "Legal minimum age" means the minimum age at which an
10 individual may legally purchase cigarettes within this State,
11 as determined by either State or local government.

12 "Mails" or "mailing" mean the shipment of cigarettes
13 through the United States Postal Service.

14 "Out-of-state sale" means a sale of cigarettes to a
15 consumer located outside of this State where the consumer
16 submits the order for such sale by means of a telephonic or
17 other method of voice transmission, the mails or any other
18 delivery service, facsimile transmission, or the Internet or
19 other online service and where the cigarettes are delivered by
20 use of the mails or other delivery service.

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

24 "Shipping package" means a container in which packs or
25 cartons of cigarettes are shipped in connection with a delivery
26 sale.

1 "Shipping documents" means bills of lading, air bills, or
2 any other documents used to evidence the undertaking by a
3 delivery service to deliver letters, packages, or other
4 containers.

5 "Within this State" means within the exterior limits of the
6 State of Illinois and includes all territory within these
7 limits owned by or ceded to the United States of America.

8 (720 ILCS 678/5)

9 Sec. 5. Unlawful shipment or transportation of cigarettes.

10 (a) It is unlawful for any person engaged in the business
11 of selling cigarettes to ship or cause to be shipped any
12 cigarettes unless the person shipping the cigarettes:

13 (1) is licensed as a distributor under either the
14 Cigarette Tax Act, or the Cigarette Use Tax Act; or
15 delivers the cigarettes to a distributor licensed under
16 either the Cigarette Tax Act or the Cigarette Use Tax Act;
17 or

18 (2) ships them to an export warehouse proprietor
19 pursuant to Chapter 52 of the Internal Revenue Code, or an
20 operator of a customs bonded warehouse pursuant to Section
21 1311 or 1555 of Title 19 of the United States Code.

22 For purposes of this subsection (a), a person is a licensed
23 distributor if the person's name appears on a list of licensed
24 distributors published by the Illinois Department of Revenue.
25 The term cigarette has the same meaning as defined in Section 1

1 of the Cigarette Tax Act and Section 1 of the Cigarette Use Tax
2 Act. Nothing in this Act prohibits a person licensed as a
3 distributor under the Cigarette Tax Act or the Cigarette Use
4 Tax Act from shipping or causing to be shipped any cigarettes
5 to a registered retailer under the Retailers' Occupation Tax
6 Act and the Cigarette Tax Act provided the cigarette tax or
7 cigarette use tax has been paid.

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

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

1 age; and a written statement signed by the purchaser that
2 certifies the purchaser's address and that the purchaser is at
3 least 18 years of age. The statement shall also confirm: (1)
4 that the purchaser understands that signing another person's
5 name to the certification is illegal; (2) that the sale of
6 cigarettes to individuals under 18 years of age is illegal; and
7 (3) that the purchase of cigarettes by individuals under 18
8 years of age is illegal under the laws of Illinois.

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

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

23 (Source: P.A. 93-960, eff. 8-20-04.)

24 (720 ILCS 678/6 new)

25 Sec. 6. Prevention of delivery sales to minors.

1 (a) No person shall make a delivery sale of cigarettes to
2 any individual who is under the legal minimum age.

3 (b) Each person accepting a purchase order for a delivery
4 sale shall comply with the provisions of this Act and all other
5 laws of this State generally applicable to sales of cigarettes
6 that occur entirely within this State, including, but not
7 limited to, those laws imposing: (i) excise taxes; (ii) sales
8 taxes; (iii) license and revenue-stamping requirements; and
9 (iv) escrow payment obligations.

10 (720 ILCS 678/7 new)

11 Sec. 7. Age verification and shipping requirements to
12 prevent delivery sales to minors.

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

16 (1) prior to the first delivery sale to the prospective
17 consumer, obtains from the prospective consumer a written
18 certification which includes a statement signed by the
19 prospective consumer that certifies:

20 (A) the prospective consumer's current address;

21 and

22 (B) that the prospective consumer is at least the
23 legal minimum age;

24 (2) informs, in writing, such prospective consumer
25 that:

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

3 (B) sales of cigarettes to individuals under the
4 legal minimum age are illegal;

5 (C) the purchase of cigarettes by individuals
6 under the legal minimum age is illegal; and

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

12 (3) makes a good faith effort to verify the date of
13 birth of the prospective customer provided pursuant to this
14 Section by:

15 (A) comparing the date of birth against a
16 commercially available database or

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

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

22 (5) receives payment for the delivery sale from the
23 prospective consumer by a credit or debit card that has
24 been issued in such consumer's name, or by a check or other
25 written instrument in such consumer's name; and

26 (6) ensures that the shipping package is delivered to

1 the same address as is shown on the government-issued
2 identification or contained in the commercially available
3 database.

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

5 (1) a statement that cigarette sales to consumers below
6 the legal minimum age are illegal;

7 (2) a statement that sales of cigarettes are restricted
8 to those consumers who provide verifiable proof of age in
9 accordance with subsection (a);

10 (3) a statement that cigarette sales are subject to tax
11 under Section 2 of the Cigarette Tax Act (35 ILCS 130/2)
12 and an explanation of how such tax has been, or is to be,
13 paid with respect to such delivery sale.

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

15 (1) the statement is clear and conspicuous;

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

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

19 (4) the statement is printed with a degree of color
20 contrast between the background and the printed statement
21 that is no less than the color contrast between the
22 background and the largest text used in the communication;
23 and

24 (5) for any printed material delivered by electronic
25 means, the statement appears at both the top and the bottom
26 of the electronic mail message or both the top and the

1 bottom of the Internet website homepage.

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

5 (1) include as part of the shipping documents a clear
6 and conspicuous statement stating: "Cigarettes: Illinois
7 Law Prohibits Shipping to Individuals Under 18 and Requires
8 the Payment of All Applicable Taxes";

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

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

14 (720 ILCS 678/8 new)

15 Sec. 8. Registration and reporting requirements to prevent
16 delivery sales to minors.

17 (a) Each person who makes a delivery sale of cigarettes to
18 a consumer located within this State shall file with the
19 Department for each individual sale:

20 (1) a statement setting forth such person's name, trade
21 name, and the address of such person's principal place of
22 business and any other place of business; and

23 (2) not later than the tenth day of each calendar
24 month, a memorandum or copy of the invoice for each and
25 every such delivery sale made during the previous calendar

1 month, which includes the following information:

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

4 (B) the brand style or brand styles of the
5 cigarettes that were sold in such delivery sale;

6 (C) the quantity of cigarettes that were sold in
7 such delivery sale; and

8 (D) an indication of whether or not the cigarettes
9 sold in the delivery sale bore a tax stamp evidencing
10 payment of the tax under Section 2 of the Cigarette Tax
11 Act (35 ILCS 130/2).

12 (b) Each person engaged in business within this State who
13 makes an out-of-state sale shall, for each individual sale,
14 submit to the appropriate tax official of the state in which
15 the consumer is located the information required in subsection
16 (a).

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

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

1 or of other states.

2 (e) This Section shall not be construed to impose liability
3 upon any delivery service, or officers or employees thereof,
4 when acting within the scope of business of the delivery
5 service.

6 (720 ILCS 678/9 new)

7 Sec. 9. Statements for delivery sales.

8 (a) Each person who makes a delivery sale shall collect and
9 remit to the Department all excise taxes imposed by this State
10 with respect to such delivery sale and maintain evidence of
11 such payment unless the person is located outside the State and
12 includes a statement on the outside of the shipping package
13 stating: "Illinois law requires the payment of state taxes on
14 this shipment of cigarettes. You are legally responsible for
15 all applicable unpaid state taxes on these cigarettes."

16 (b) A statement meets the requirements of subsection (a) if
17 the statement is:

18 (1) clear and conspicuous;

19 (2) contained in a printed box set apart from the
20 shipping label and other markings contained on the shipping
21 package;

22 (3) printed in bold, capital letters;

23 (4) printed with a degree of color contrast between the
24 background and the printed statement that is no less than
25 the color contrast between the background and the largest

1 text used on the shipping label; and

2 (5) located on the same side of the shipping package as
3 the shipping label.

4 (720 ILCS 678/10)

5 Sec. 10. Violation.

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

11 (b) The Department of Revenue shall impose a civil penalty
12 not to exceed \$5,000 on any person who violates subsection (a),
13 (b), or (c) of Section 5 or Section 6, 7, 8, or 9. The
14 Department of Revenue shall impose a civil penalty not to
15 exceed \$5,000 on any person engaged in the business of selling
16 cigarettes who ships or causes to be shipped any such
17 cigarettes to any person in this State in violation of
18 subsection (d) of Section 5.

19 (c) All cigarettes sold or attempted to be sold in a
20 delivery sale that does not meet the requirements of this Act
21 shall be forfeited to the State. All cigarettes forfeited to
22 this State under this Act shall be destroyed. The Department
23 may, prior to any destruction of cigarettes, permit the true
24 holder of the trademark rights in the cigarette brand to
25 inspect such contraband cigarettes, in order to assist the

1 Department in any investigation regarding such cigarettes.

2 (d) ~~(e)~~ Any person aggrieved by any decision of the
3 Department of Revenue may, within 60 days after notice of that
4 decision, protest in writing and request a hearing. The
5 Department of Revenue shall give notice to the person of the
6 time and place for the hearing and shall hold a hearing before
7 it issues a final administrative decision. Absent a written
8 protest within 60 days, the Department's decision shall become
9 final without any further determination made or notice given.
10 (Source: P.A. 93-960, eff. 8-20-04.)

11 (720 ILCS 678/20 new)

12 Sec. 20. Tip line.

13 (a) Not later than 120 days after the effective date of
14 this amendatory Act of the 95th General Assembly, the
15 Department shall establish, publicize, and maintain a
16 toll-free telephone number to receive information related to
17 violations of this Act.

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

23 (720 ILCS 678/25 new)

24 Sec. 25. Construction. The requirements imposed by this Act

1 shall not apply where such application would be contrary to the
2 Constitution and laws of the United States.

3 (720 ILCS 678/30 new)

4 Sec. 30. Severability. If any provision of this Act is for
5 any reason held to be unconstitutional or invalid, such holding
6 shall not affect the constitutionality or validity of the
7 remaining provisions of this Act, and to this end the
8 provisions of this Act are expressly declared to be severable.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.