



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5857

Introduced 2/10/2010, by Rep. Franco Coladipietro

SYNOPSIS AS INTRODUCED:

35 ILCS 130/3	from Ch. 120, par. 453.3
35 ILCS 130/5	from Ch. 120, par. 453.5
35 ILCS 135/3	from Ch. 120, par. 453.33

Amends the Cigarette Tax Act and the Cigarette Use Tax Act. Provides that tax stamps sold on or after January 1, 2011 must be counterfeit-resistant and encrypted with certain information. Provides that the stamps shall (i) be produced in a secure facility certified in accordance with the security assistance standards established in 2005 by the American National Standards Institute and the North American Security Products Organization, (ii) incorporate a minimum of 4 layers of overt, semi-covert, and covert data, and (iii) instantaneously capture encrypted data. Requires distributors to acquire certain necessary equipment and provide the encrypted data to the Department of Revenue in the form and manner required by the Department. Requires the Department of Revenue to retain the data using a secure system. Provides that any distributor having stamped packages of cigarettes in his or her possession on January 1, 2011 may continue to possess, deliver, or distribute those stamped cigarettes. Effective immediately.

LRB096 18246 HLH 33621 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 5. The Cigarette Tax Act is amended by changing
5 Sections 3 and 5 as follows:

6 (35 ILCS 130/3) (from Ch. 120, par. 453.3)

7 Sec. 3. Affixing tax stamp; remitting tax to the
8 Department. Payment of the taxes imposed by Section 2 of this
9 Act shall (except as hereinafter provided) be evidenced by
10 revenue tax stamps affixed to each original package of
11 cigarettes. Each distributor of cigarettes, before delivering
12 or causing to be delivered any original package of cigarettes
13 in this State to a purchaser, shall firmly affix a proper stamp
14 or stamps to each such package, or (in case of manufacturers of
15 cigarettes in original packages which are contained inside a
16 sealed transparent wrapper) shall imprint the required
17 language on the original package of cigarettes beneath such
18 outside wrapper, as hereinafter provided.

19 No stamp or imprint may be affixed to, or made upon, any
20 package of cigarettes unless that package complies with all
21 requirements of the federal Cigarette Labeling and Advertising
22 Act, 15 U.S.C. 1331 and following, for the placement of labels,
23 warnings, or any other information upon a package of cigarettes

1 that is sold within the United States. Under the authority of
2 Section 6, the Department shall revoke the license of any
3 distributor that is determined to have violated this paragraph.
4 A person may not affix a stamp on a package of cigarettes,
5 cigarette papers, wrappers, or tubes if that individual package
6 has been marked for export outside the United States with a
7 label or notice in compliance with Section 290.185 of Title 27
8 of the Code of Federal Regulations. It is not a defense to a
9 proceeding for violation of this paragraph that the label or
10 notice has been removed, mutilated, obliterated, or altered in
11 any manner.

12 In addition, stamps sold on or after January 1, 2011 must
13 be counterfeit-resistant and encrypted to identify, at a
14 minimum: (i) the name and address of the distributor affixing
15 the stamp, (ii) the date the stamp was affixed to the cigarette
16 package, and (iii) the denominated value of the stamp. Those
17 stamps must be readable and traceable from the point of stamp
18 production to the point of sale and must be readable by a
19 scanner or similar device that may be used by the Department or
20 by licensed cigarette distributors, wholesalers, and
21 retailers.

22 Stamps sold on or after January 1, 2011 must (i) be
23 produced in a secure facility certified in accordance with the
24 security assistance standards established in 2005 by the
25 American National Standards Institute and the North American
26 Security Products Organization, (ii) incorporate a minimum of 4

1 layers of overt, semi-covert, and covert data, and (iii)
2 instantaneously capture encrypted data.

3 As soon as possible after January 1, 2011, distributors and
4 other parties approved by the Department must acquire, either
5 by lease, lease-to-own, or purchase, the equipment necessary to
6 carry out the requirements of this Section, including equipment
7 to affix stamps and equipment to read or scan information from
8 stamps. The equipment must be approved by the Department.

9 Distributors must provide the encrypted data to the
10 Department in the form and manner required by the Department by
11 rule. The Department shall retain the data in a secure data
12 collection, management, and decision support system.

13 Any distributor having stamped but non-encrypted packages
14 of cigarettes in his or her possession on January 1, 2011 may
15 continue to possess, deliver, or distribute those stamped
16 cigarettes.

17 Only distributors licensed under this Act and
18 transporters, as defined in Section 9c of this Act, may possess
19 unstamped original packages of cigarettes. Prior to shipment to
20 an Illinois retailer, a stamp shall be applied to each original
21 package of cigarettes sold to the retailer. A distributor may
22 apply tax stamps only to original packages of cigarettes
23 purchased or obtained directly from an in-state maker,
24 manufacturer, or fabricator licensed as a distributor under
25 Section 4 of this Act or an out-of-state maker, manufacturer,
26 or fabricator holding a permit under Section 4b of this Act. A

1 licensed distributor may ship or otherwise cause to be
2 delivered unstamped original packages of cigarettes in, into,
3 or from this State. A licensed distributor may transport
4 unstamped original packages of cigarettes to a facility,
5 wherever located, owned or controlled by such distributor;
6 however, a distributor may not transport unstamped original
7 packages of cigarettes to a facility where retail sales of
8 cigarettes take place. Any licensed distributor that ships or
9 otherwise causes to be delivered unstamped original packages of
10 cigarettes into, within, or from this State shall ensure that
11 the invoice or equivalent documentation and the bill of lading
12 or freight bill for the shipment identifies the true name and
13 address of the consignor or seller, the true name and address
14 of the consignee or purchaser, and the quantity by brand style
15 of the cigarettes so transported, provided that this Section
16 shall not be construed as to impose any requirement or
17 liability upon any common or contract carrier.

18 The Department, or any person authorized by the Department,
19 shall sell such stamps only to persons holding valid licenses
20 as distributors under this Act. On and after July 1, 2003,
21 payment for such stamps must be made by means of electronic
22 funds transfer. The Department may refuse to sell stamps to any
23 person who does not comply with the provisions of this Act.
24 Beginning on the effective date of this amendatory Act of the
25 92nd General Assembly and through June 30, 2002, persons
26 holding valid licenses as distributors may purchase cigarette

1 tax stamps up to an amount equal to 115% of the distributor's
2 average monthly cigarette tax stamp purchases over the 12
3 calendar months prior to the effective date of this amendatory
4 Act of the 92nd General Assembly.

5 Prior to December 1, 1985, the Department shall allow a
6 distributor 21 days in which to make final payment of the
7 amount to be paid for such stamps, by allowing the distributor
8 to make payment for the stamps at the time of purchasing them
9 with a draft which shall be in such form as the Department
10 prescribes, and which shall be payable within 21 days
11 thereafter: Provided that such distributor has filed with the
12 Department, and has received the Department's approval of, a
13 bond, which is in addition to the bond required under Section 4
14 of this Act, payable to the Department in an amount equal to
15 80% of such distributor's average monthly tax liability to the
16 Department under this Act during the preceding calendar year or
17 \$500,000, whichever is less. The Bond shall be joint and
18 several and shall be in the form of a surety company bond in
19 such form as the Department prescribes, or it may be in the
20 form of a bank certificate of deposit or bank letter of credit.
21 The bond shall be conditioned upon the distributor's payment of
22 amount of any 21-day draft which the Department accepts from
23 that distributor for the delivery of stamps to that distributor
24 under this Act. The distributor's failure to pay any such
25 draft, when due, shall also make such distributor automatically
26 liable to the Department for a penalty equal to 25% of the

1 amount of such draft.

2 On and after December 1, 1985 and until July 1, 2003, the
3 Department shall allow a distributor 30 days in which to make
4 final payment of the amount to be paid for such stamps, by
5 allowing the distributor to make payment for the stamps at the
6 time of purchasing them with a draft which shall be in such
7 form as the Department prescribes, and which shall be payable
8 within 30 days thereafter, and beginning on January 1, 2003 and
9 thereafter, the draft shall be payable by means of electronic
10 funds transfer: Provided that such distributor has filed with
11 the Department, and has received the Department's approval of,
12 a bond, which is in addition to the bond required under Section
13 4 of this Act, payable to the Department in an amount equal to
14 150% of such distributor's average monthly tax liability to the
15 Department under this Act during the preceding calendar year or
16 \$750,000, whichever is less, except that as to bonds filed on
17 or after January 1, 1987, such additional bond shall be in an
18 amount equal to 100% of such distributor's average monthly tax
19 liability under this Act during the preceding calendar year or
20 \$750,000, whichever is less. The bond shall be joint and
21 several and shall be in the form of a surety company bond in
22 such form as the Department prescribes, or it may be in the
23 form of a bank certificate of deposit or bank letter of credit.
24 The bond shall be conditioned upon the distributor's payment of
25 the amount of any 30-day draft which the Department accepts
26 from that distributor for the delivery of stamps to that

1 distributor under this Act. The distributor's failure to pay
2 any such draft, when due, shall also make such distributor
3 automatically liable to the Department for a penalty equal to
4 25% of the amount of such draft.

5 Every prior continuous compliance taxpayer shall be exempt
6 from all requirements under this Section concerning the
7 furnishing of such bond, as defined in this Section, as a
8 condition precedent to his being authorized to engage in the
9 business licensed under this Act. This exemption shall continue
10 for each such taxpayer until such time as he may be determined
11 by the Department to be delinquent in the filing of any
12 returns, or is determined by the Department (either through the
13 Department's issuance of a final assessment which has become
14 final under the Act, or by the taxpayer's filing of a return
15 which admits tax to be due that is not paid) to be delinquent
16 or deficient in the paying of any tax under this Act, at which
17 time that taxpayer shall become subject to the bond
18 requirements of this Section and, as a condition of being
19 allowed to continue to engage in the business licensed under
20 this Act, shall be required to furnish bond to the Department
21 in such form as provided in this Section. Such taxpayer shall
22 furnish such bond for a period of 2 years, after which, if the
23 taxpayer has not been delinquent in the filing of any returns,
24 or delinquent or deficient in the paying of any tax under this
25 Act, the Department may reinstate such person as a prior
26 continuance compliance taxpayer. Any taxpayer who fails to pay

1 an admitted or established liability under this Act may also be
2 required to post bond or other acceptable security with the
3 Department guaranteeing the payment of such admitted or
4 established liability.

5 Any person aggrieved by any decision of the Department
6 under this Section may, within the time allowed by law, protest
7 and request a hearing, whereupon the Department shall give
8 notice and shall hold a hearing in conformity with the
9 provisions of this Act and then issue its final administrative
10 decision in the matter to such person. In the absence of such a
11 protest filed within the time allowed by law, the Department's
12 decision shall become final without any further determination
13 being made or notice given.

14 The Department shall discharge any surety and shall release
15 and return any bond or security deposited, assigned, pledged,
16 or otherwise provided to it by a taxpayer under this Section
17 within 30 days after:

18 (1) Such taxpayer becomes a prior continuous compliance
19 taxpayer; or

20 (2) Such taxpayer has ceased to collect receipts on which
21 he is required to remit tax to the Department, has filed a
22 final tax return, and has paid to the Department an amount
23 sufficient to discharge his remaining tax liability as
24 determined by the Department under this Act. The Department
25 shall make a final determination of the taxpayer's outstanding
26 tax liability as expeditiously as possible after his final tax

1 return has been filed. If the Department cannot make such final
2 determination within 45 days after receiving the final tax
3 return, within such period it shall so notify the taxpayer,
4 stating its reasons therefor.

5 The Department may authorize distributors to affix revenue
6 tax stamps by imprinting tax meter stamps upon original
7 packages of cigarettes. The Department shall adopt rules and
8 regulations relating to the imprinting of such tax meter stamps
9 as will result in payment of the proper taxes as herein
10 imposed. No distributor may affix revenue tax stamps to
11 original packages of cigarettes by imprinting tax meter stamps
12 thereon unless such distributor has first obtained permission
13 from the Department to employ this method of affixation. The
14 Department shall regulate the use of tax meters and may, to
15 assure the proper collection of the taxes imposed by this Act,
16 revoke or suspend the privilege, theretofore granted by the
17 Department to any distributor, to imprint tax meter stamps upon
18 original packages of cigarettes.

19 Illinois cigarette manufacturers who place their
20 cigarettes in original packages which are contained inside a
21 sealed transparent wrapper, and similar out-of-State cigarette
22 manufacturers who elect to qualify and are accepted by the
23 Department as distributors under Section 4b(a) of this Act,
24 shall pay the taxes imposed by this Act by remitting the amount
25 thereof to the Department by the 5th day of each month covering
26 cigarettes shipped or otherwise delivered in Illinois to

1 purchasers during the preceding calendar month. Such
2 manufacturers of cigarettes in original packages which are
3 contained inside a sealed transparent wrapper, before
4 delivering such cigarettes or causing such cigarettes to be
5 delivered in this State to purchasers, shall evidence their
6 obligation to remit the taxes due with respect to such
7 cigarettes by imprinting language to be prescribed by the
8 Department on each original package of such cigarettes
9 underneath the sealed transparent outside wrapper of such
10 original package, in such place thereon and in such manner as
11 the Department may designate. Such imprinted language shall
12 acknowledge the manufacturer's payment of or liability for the
13 tax imposed by this Act with respect to the distribution of
14 such cigarettes.

15 A distributor shall not affix, or cause to be affixed, any
16 stamp or imprint to a package of cigarettes, as provided for in
17 this Section, if the tobacco product manufacturer, as defined
18 in Section 10 of the Tobacco Product Manufacturers' Escrow Act,
19 that made or sold the cigarettes has failed to become a
20 participating manufacturer, as defined in subdivision (a)(1)
21 of Section 15 of the Tobacco Product Manufacturers' Escrow Act,
22 or has failed to create a qualified escrow fund for any
23 cigarettes manufactured by the tobacco product manufacturer
24 and sold in this State or otherwise failed to bring itself into
25 compliance with subdivision (a)(2) of Section 15 of the Tobacco
26 Product Manufacturers' Escrow Act.

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

2 (35 ILCS 130/5) (from Ch. 120, par. 453.5)

3 Sec. 5. Printing tax stamps. Except as provided in Section
4 3 of this Act, the ~~The~~ Department shall adopt the design or
5 designs of the tax stamps or alternative tax indicia and shall
6 procure the printing of such stamps or alternative tax indicia
7 in such amounts and denominations as it deems necessary to
8 provide for the affixation of the proper amount of tax stamps
9 or alternative tax indicia to each original package of
10 cigarettes.

11 (Source: P.A. 92-322, eff. 1-1-02.)

12 Section 10. The Cigarette Use Tax Act is amended by
13 changing Section 3 as follows:

14 (35 ILCS 135/3) (from Ch. 120, par. 453.33)

15 Sec. 3. Stamp payment. The tax hereby imposed shall be
16 collected by a distributor maintaining a place of business in
17 this State or a distributor authorized by the Department
18 pursuant to Section 7 hereof to collect the tax, and the amount
19 of the tax shall be added to the price of the cigarettes sold
20 by such distributor. Collection of the tax shall be evidenced
21 by a stamp or stamps affixed to each original package of
22 cigarettes or by an authorized substitute for such stamp
23 imprinted on each original package of such cigarettes

1 underneath the sealed transparent outside wrapper of such
2 original package, except as hereinafter provided. Each
3 distributor who is required or authorized to collect the tax
4 herein imposed, before delivering or causing to be delivered
5 any original packages of cigarettes in this State to any
6 purchaser, shall firmly affix a proper stamp or stamps to each
7 such package, or (in the case of manufacturers of cigarettes in
8 original packages which are contained inside a sealed
9 transparent wrapper) shall imprint the required language on the
10 original package of cigarettes beneath such outside wrapper as
11 hereinafter provided. Such stamp or stamps need not be affixed
12 to the original package of any cigarettes with respect to which
13 the distributor is required to affix a like stamp or stamps by
14 virtue of the Cigarette Tax Act, however, and no tax imprint
15 need be placed underneath the sealed transparent wrapper of an
16 original package of cigarettes with respect to which the
17 distributor is required or authorized to employ a like tax
18 imprint by virtue of the Cigarette Tax Act.

19 No stamp or imprint may be affixed to, or made upon, any
20 package of cigarettes unless that package complies with all
21 requirements of the federal Cigarette Labeling and Advertising
22 Act, 15 U.S.C. 1331 and following, for the placement of labels,
23 warnings, or any other information upon a package of cigarettes
24 that is sold within the United States. Under the authority of
25 Section 6, the Department shall revoke the license of any
26 distributor that is determined to have violated this paragraph.

1 A person may not affix a stamp on a package of cigarettes,
2 cigarette papers, wrappers, or tubes if that individual package
3 has been marked for export outside the United States with a
4 label or notice in compliance with Section 290.185 of Title 27
5 of the Code of Federal Regulations. It is not a defense to a
6 proceeding for violation of this paragraph that the label or
7 notice has been removed, mutilated, obliterated, or altered in
8 any manner.

9 In addition, stamps sold on or after January 1, 2011 must
10 be counterfeit-resistant and encrypted to identify, at a
11 minimum: (i) the name and address of the distributor affixing
12 the stamp, (ii) the date the stamp was affixed to the cigarette
13 package, and (iii) the denominated value of the stamp. Those
14 stamps must be readable and traceable from the point of stamp
15 production to the point of sale and must be readable by a
16 scanner or similar device that may be used by the Department or
17 by licensed cigarette distributors, wholesalers, and
18 retailers.

19 Stamps sold on or after January 1, 2011 must (i) be
20 produced in a secure facility certified in accordance with the
21 security assistance standards established in 2005 by the
22 American National Standards Institute and the North American
23 Security Products Organization, (ii) incorporate a minimum of 4
24 layers of overt, semi-covert, and covert data, and (iii)
25 instantaneously capture encrypted data.

26 As soon as possible after January 1, 2011, distributors and

1 other parties approved by the Department must acquire, either
2 by lease, lease-to-own, or purchase, the equipment necessary to
3 carry out the requirements of this Section, including equipment
4 to affix stamps and equipment to read or scan information from
5 stamps. The equipment must be approved by the Department.

6 Distributors must provide the encrypted data to the
7 Department in the form and manner required by the Department by
8 rule. The Department shall retain the data in a secure data
9 collection, management, and decision support system.

10 Any distributor having stamped but non-encrypted packages
11 of cigarettes in his or her possession on January 1, 2011 may
12 continue to possess, deliver, or distribute those stamped
13 cigarettes.

14 Only distributors licensed under this Act and
15 transporters, as defined in Section 9c of the Cigarette Tax
16 Act, may possess unstamped original packages of cigarettes.
17 Prior to shipment to an Illinois retailer, a stamp shall be
18 applied to each original package of cigarettes sold to the
19 retailer. A distributor may apply a tax stamp only to an
20 original package of cigarettes purchased or obtained directly
21 from an in-state maker, manufacturer, or fabricator licensed as
22 a distributor under Section 4 of this Act or an out-of-state
23 maker, manufacturer, or fabricator holding a permit under
24 Section 7 of this Act. A licensed distributor may ship or
25 otherwise cause to be delivered unstamped original packages of
26 cigarettes in, into, or from this State. A licensed distributor

1 may transport unstamped original packages of cigarettes to a
2 facility, wherever located, owned or controlled by such
3 distributor; however, a distributor may not transport
4 unstamped original packages of cigarettes to a facility where
5 retail sales of cigarettes take place. Any licensed distributor
6 that ships or otherwise causes to be delivered unstamped
7 original packages of cigarettes into, within, or from this
8 State shall ensure that the invoice or equivalent documentation
9 and the bill of lading or freight bill for the shipment
10 identifies the true name and address of the consignor or
11 seller, the true name and address of the consignee or
12 purchaser, and the quantity by brand style of the cigarettes so
13 transported, provided that this Section shall not be construed
14 as to impose any requirement or liability upon any common or
15 contract carrier.

16 Stamps, when required hereunder, shall be purchased from
17 the Department, or any person authorized by the Department, by
18 distributors. On and after July 1, 2003, payment for such
19 stamps must be made by means of electronic funds transfer. The
20 Department may refuse to sell stamps to any person who does not
21 comply with the provisions of this Act. Beginning on June 6,
22 2002 and through June 30, 2002, persons holding valid licenses
23 as distributors may purchase cigarette tax stamps up to an
24 amount equal to 115% of the distributor's average monthly
25 cigarette tax stamp purchases over the 12 calendar months prior
26 to June 6, 2002.

1 Prior to December 1, 1985, the Department shall allow a
2 distributor 21 days in which to make final payment of the
3 amount to be paid for such stamps, by allowing the distributor
4 to make payment for the stamps at the time of purchasing them
5 with a draft which shall be in such form as the Department
6 prescribes, and which shall be payable within 21 days
7 thereafter: Provided that such distributor has filed with the
8 Department, and has received the Department's approval of, a
9 bond, which is in addition to the bond required under Section 4
10 of this Act, payable to the Department in an amount equal to
11 80% of such distributor's average monthly tax liability to the
12 Department under this Act during the preceding calendar year or
13 \$500,000, whichever is less. The bond shall be joint and
14 several and shall be in the form of a surety company bond in
15 such form as the Department prescribes, or it may be in the
16 form of a bank certificate of deposit or bank letter of credit.
17 The bond shall be conditioned upon the distributor's payment of
18 the amount of any 21-day draft which the Department accepts
19 from that distributor for the delivery of stamps to that
20 distributor under this Act. The distributor's failure to pay
21 any such draft, when due, shall also make such distributor
22 automatically liable to the Department for a penalty equal to
23 25% of the amount of such draft.

24 On and after December 1, 1985 and until July 1, 2003, the
25 Department shall allow a distributor 30 days in which to make
26 final payment of the amount to be paid for such stamps, by

1 allowing the distributor to make payment for the stamps at the
2 time of purchasing them with a draft which shall be in such
3 form as the Department prescribes, and which shall be payable
4 within 30 days thereafter, and beginning on January 1, 2003 and
5 thereafter, the draft shall be payable by means of electronic
6 funds transfer: Provided that such distributor has filed with
7 the Department, and has received the Department's approval of,
8 a bond, which is in addition to the bond required under Section
9 4 of this Act, payable to the Department in an amount equal to
10 150% of such distributor's average monthly tax liability to the
11 Department under this Act during the preceding calendar year or
12 \$750,000, whichever is less, except that as to bonds filed on
13 or after January 1, 1987, such additional bond shall be in an
14 amount equal to 100% of such distributor's average monthly tax
15 liability under this Act during the preceding calendar year or
16 \$750,000, whichever is less. The bond shall be joint and
17 several and shall be in the form of a surety company bond in
18 such form as the Department prescribes, or it may be in the
19 form of a bank certificate of deposit or bank letter of credit.
20 The bond shall be conditioned upon the distributor's payment of
21 the amount of any 30-day draft which the Department accepts
22 from that distributor for the delivery of stamps to that
23 distributor under this Act. The distributor's failure to pay
24 any such draft, when due, shall also make such distributor
25 automatically liable to the Department for a penalty equal to
26 25% of the amount of such draft.

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

1 Any person aggrieved by any decision of the Department
2 under this Section may, within the time allowed by law, protest
3 and request a hearing, whereupon the Department shall give
4 notice and shall hold a hearing in conformity with the
5 provisions of this Act and then issue its final administrative
6 decision in the matter to such person. In the absence of such a
7 protest filed within the time allowed by law, the Department's
8 decision shall become final without any further determination
9 being made or notice given.

10 The Department shall discharge any surety and shall release
11 and return any bond or security deposited, assigned, pledged,
12 or otherwise provided to it by a taxpayer under this Section
13 within 30 days after:

14 (1) such Taxpayer becomes a prior continuous
15 compliance taxpayer; or

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

1 therefor.

2 At the time of purchasing such stamps from the Department
3 when purchase is required by this Act, or at the time when the
4 tax which he has collected is remitted by a distributor to the
5 Department without the purchase of stamps from the Department
6 when that method of remitting the tax that has been collected
7 is required or authorized by this Act, the distributor shall be
8 allowed a discount during any year commencing July 1 and ending
9 the following June 30 in accordance with the schedule set out
10 hereinbelow, from the amount to be paid by him to the
11 Department for such stamps, or to be paid by him to the
12 Department on the basis of monthly remittances (as the case may
13 be), to cover the cost, to such distributor, of collecting the
14 tax herein imposed by affixing such stamps to the original
15 packages of cigarettes sold by such distributor or by placing
16 tax imprints underneath the sealed transparent wrapper of
17 original packages of cigarettes sold by such distributor (as
18 the case may be): (1) Prior to December 1, 1985, a discount
19 equal to 1-2/3% of the amount of the tax up to and including
20 the first \$700,000 paid hereunder by such distributor to the
21 Department during any such year; 1-1/3% of the next \$700,000 of
22 tax or any part thereof, paid hereunder by such distributor to
23 the Department during any such year; 1% of the next \$700,000 of
24 tax, or any part thereof, paid hereunder by such distributor to
25 the Department during any such year; and 2/3 of 1% of the
26 amount of any additional tax paid hereunder by such distributor

1 to the Department during any such year or (2) On and after
2 December 1, 1985, a discount equal to 1.75% of the amount of
3 the tax payable under this Act up to and including the first
4 \$3,000,000 paid hereunder by such distributor to the Department
5 during any such year and 1.5% of the amount of any additional
6 tax paid hereunder by such distributor to the Department during
7 any such year.

8 Two or more distributors that use a common means of
9 affixing revenue tax stamps or that are owned or controlled by
10 the same interests shall be treated as a single distributor for
11 the purpose of computing the discount.

12 Cigarette manufacturers who are distributors under Section
13 7(a) of this Act, and who place their cigarettes in original
14 packages which are contained inside a sealed transparent
15 wrapper, shall be required to remit the tax which they are
16 required to collect under this Act to the Department by
17 remitting the amount thereof to the Department by the 5th day
18 of each month, covering cigarettes shipped or otherwise
19 delivered to points in Illinois to purchasers during the
20 preceding calendar month, but a distributor need not remit to
21 the Department the tax so collected by him from purchasers
22 under this Act to the extent to which such distributor is
23 required to remit the tax imposed by the Cigarette Tax Act to
24 the Department with respect to the same cigarettes. All taxes
25 upon cigarettes under this Act are a direct tax upon the retail
26 consumer and shall conclusively be presumed to be precollected

1 for the purpose of convenience and facility only. Cigarette
2 manufacturers that are distributors licensed under Section
3 7(a) of this Act and who place their cigarettes in original
4 packages which are contained inside a sealed transparent
5 wrapper, before delivering such cigarettes or causing such
6 cigarettes to be delivered in this State to purchasers, shall
7 evidence their obligation to collect and remit the tax due with
8 respect to such cigarettes by imprinting language to be
9 prescribed by the Department on each original package of such
10 cigarettes underneath the sealed transparent outside wrapper
11 of such original package, in such place thereon and in such
12 manner as the Department may prescribe; provided (as stated
13 hereinbefore) that this requirement does not apply when such
14 distributor is required or authorized by the Cigarette Tax Act
15 to place the tax imprint provided for in the last paragraph of
16 Section 3 of that Act underneath the sealed transparent wrapper
17 of such original package of cigarettes. Such imprinted language
18 shall acknowledge the manufacturer's collection and payment of
19 or liability for the tax imposed by this Act with respect to
20 such cigarettes.

21 Except as otherwise provided in this Section, the ~~The~~
22 Department shall adopt the design or designs of the tax stamps
23 and shall procure the printing of such stamps in such amounts
24 and denominations as it deems necessary to provide for the
25 affixation of the proper amount of tax stamps to each original
26 package of cigarettes.

1 Where tax stamps are required, the Department may authorize
2 distributors to affix revenue tax stamps by imprinting tax
3 meter stamps upon original packages of cigarettes. The
4 Department shall adopt rules and regulations relating to the
5 imprinting of such tax meter stamps as will result in payment
6 of the proper taxes as herein imposed. No distributor may affix
7 revenue tax stamps to original packages of cigarettes by
8 imprinting meter stamps thereon unless such distributor has
9 first obtained permission from the Department to employ this
10 method of affixation. The Department shall regulate the use of
11 tax meters and may, to assure the proper collection of the
12 taxes imposed by this Act, revoke or suspend the privilege,
13 theretofore granted by the Department to any distributor, to
14 imprint tax meter stamps upon original packages of cigarettes.

15 The tax hereby imposed and not paid pursuant to this
16 Section shall be paid to the Department directly by any person
17 using such cigarettes within this State, pursuant to Section 12
18 hereof.

19 A distributor shall not affix, or cause to be affixed, any
20 stamp or imprint to a package of cigarettes, as provided for in
21 this Section, if the tobacco product manufacturer, as defined
22 in Section 10 of the Tobacco Product Manufacturers' Escrow Act,
23 that made or sold the cigarettes has failed to become a
24 participating manufacturer, as defined in subdivision (a)(1)
25 of Section 15 of the Tobacco Product Manufacturers' Escrow Act,
26 or has failed to create a qualified escrow fund for any

1 cigarettes manufactured by the tobacco product manufacturer
2 and sold in this State or otherwise failed to bring itself into
3 compliance with subdivision (a) (2) of Section 15 of the Tobacco
4 Product Manufacturers' Escrow Act.

5 (Source: P.A. 96-782, eff. 1-1-10.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.