



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1925

Introduced 2/10/2011, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

35 ILCS 143/10-5
35 ILCS 143/10-10
35 ILCS 143/10-30

Amends the Tobacco Products Tax Act of 1995. Defines "little cigar". Provides that little cigars shall be taxed at a rate per cigar that is equal to the rate imposed per cigarette under the Cigarette Tax Act. Provides that a distributor shall disclose the quantity of little cigars sold or otherwise disposed of.

LRB097 10207 PJG 50403 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 Tobacco Products Tax Act of 1995 is amended
5 by changing Sections 10-5, 10-10, and 10-30 as follows:

6 (35 ILCS 143/10-5)

7 Sec. 10-5. Definitions. For purposes of this Act:

8 "Business" means any trade, occupation, activity, or
9 enterprise engaged in, at any location whatsoever, for the
10 purpose of selling tobacco products.

11 "Cigarette" has the meaning ascribed to the term in Section
12 1 of the Cigarette Tax Act.

13 "Correctional Industries program" means a program run by a
14 State penal institution in which residents of the penal
15 institution produce tobacco products for sale to persons
16 incarcerated in penal institutions or resident patients of a
17 State operated mental health facility.

18 "Department" means the Illinois Department of Revenue.

19 "Distributor" means any of the following:

20 (1) Any manufacturer or wholesaler in this State
21 engaged in the business of selling tobacco products who
22 sells, exchanges, or distributes tobacco products to
23 retailers or consumers in this State.

1 (2) Any manufacturer or wholesaler engaged in the
2 business of selling tobacco products from without this
3 State who sells, exchanges, distributes, ships, or
4 transports tobacco products to retailers or consumers
5 located in this State, so long as that manufacturer or
6 wholesaler has or maintains within this State, directly or
7 by subsidiary, an office, sales house, or other place of
8 business, or any agent or other representative operating
9 within this State under the authority of the person or
10 subsidiary, irrespective of whether the place of business
11 or agent or other representative is located here
12 permanently or temporarily.

13 (3) Any retailer who receives tobacco products on which
14 the tax has not been or will not be paid by another
15 distributor.

16 "Distributor" does not include any person, wherever
17 resident or located, who makes, manufactures, or fabricates
18 tobacco products as part of a Correctional Industries program
19 for sale to residents incarcerated in penal institutions or
20 resident patients of a State operated mental health facility.

21 "Little cigar" means any roll for smoking, made wholly or
22 in part of tobacco, if such product uses an integrated
23 cellulose acetate or other similar filter and is wrapped in any
24 substance containing tobacco, other than natural leaf tobacco.

25 "Manufacturer" means any person, wherever resident or
26 located, who manufactures and sells tobacco products, except a

1 person who makes, manufactures, or fabricates tobacco products
2 as a part of a Correctional Industries program for sale to
3 persons incarcerated in penal institutions or resident
4 patients of a State operated mental health facility.

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

11 "Place of business" means and includes any place where
12 tobacco products are sold or where tobacco products are
13 manufactured, stored, or kept for the purpose of sale or
14 consumption, including any vessel, vehicle, airplane, train,
15 or vending machine.

16 "Retailer" means any person in this State engaged in the
17 business of selling tobacco products to consumers in this
18 State, regardless of quantity or number of sales.

19 "Sale" means any transfer, exchange, or barter in any
20 manner or by any means whatsoever for a consideration and
21 includes all sales made by persons.

22 "Tobacco products" means any cigars, including little
23 cigars; cheroots; stogies; periques; granulated, plug cut,
24 crimp cut, ready rubbed, and other smoking tobacco; snuff or
25 snuff flour; cavendish; plug and twist tobacco; fine-cut and
26 other chewing tobaccos; shorts; refuse scraps, clippings,

1 cuttings, and sweeping of tobacco; and other kinds and forms of
2 tobacco, prepared in such manner as to be suitable for chewing
3 or smoking in a pipe or otherwise, or both for chewing and
4 smoking; but does not include cigarettes or tobacco purchased
5 for the manufacture of cigarettes by cigarette distributors and
6 manufacturers defined in the Cigarette Tax Act and persons who
7 make, manufacture, or fabricate cigarettes as a part of a
8 Correctional Industries program for sale to residents
9 incarcerated in penal institutions or resident patients of a
10 State operated mental health facility.

11 "Wholesale price" means the established list price for
12 which a manufacturer sells tobacco products to a distributor,
13 before the allowance of any discount, trade allowance, rebate,
14 or other reduction. In the absence of such an established list
15 price, the manufacturer's invoice price at which the
16 manufacturer sells the tobacco product to unaffiliated
17 distributors, before any discounts, trade allowances, rebates,
18 or other reductions, shall be presumed to be the wholesale
19 price.

20 "Wholesaler" means any person, wherever resident or
21 located, engaged in the business of selling tobacco products to
22 others for the purpose of resale.

23 (Source: P.A. 92-231, eff. 8-2-01.)

24 (35 ILCS 143/10-10)

25 Sec. 10-10. Tax imposed. On the first day of the third

1 month after the month in which this Act becomes law, a tax is
2 imposed on any person engaged in business as a distributor of
3 tobacco products. The tax on tobacco products, other than
4 little cigars, as defined in Section 10-5, is at the rate of
5 18% of the wholesale price of tobacco products sold or
6 otherwise disposed of to retailers or consumers located in this
7 State. The tax on little cigars, as defined in Section 10-5, is
8 at a rate per little cigar that is equal to the total taxes
9 imposed per cigarette under Section 2 of the Cigarette Tax Act,
10 as such Section may be amended from time to time, or under any
11 successor provisions taxing cigarettes. The tax is in addition
12 to all other occupation or privilege taxes imposed by the State
13 of Illinois, by any political subdivision thereof, or by any
14 municipal corporation. However, the tax is not imposed upon any
15 activity in that business in interstate commerce or otherwise,
16 to the extent to which that activity may not, under the
17 Constitution and Statutes of the United States, be made the
18 subject of taxation by this State. The tax is also not imposed
19 on sales made to the United States or any entity thereof.

20 All moneys received by the Department under this Act shall
21 be paid into the Long-Term Care Provider Fund of the State
22 Treasury.

23 (Source: P.A. 92-231, eff. 8-2-01.)

24 (35 ILCS 143/10-30)

25 Sec. 10-30. Returns. Every distributor shall, on or before

1 the 15th day of each month, file a return with the Department
2 covering the preceding calendar month. The return shall
3 disclose the wholesale price for tobacco products and the
4 quantity of little cigars sold or otherwise disposed of and
5 other information that the Department may reasonably require.
6 The return shall be filed upon a form prescribed and furnished
7 by the Department.

8 At the time when any return of any distributor is due to be
9 filed with the Department, the distributor shall also remit to
10 the Department the tax liability that the distributor has
11 incurred for transactions occurring in the preceding calendar
12 month.

13 (Source: P.A. 89-21, eff. 6-6-95.)