

1 AMENDMENT TO HOUSE BILL 539

2 AMENDMENT NO. _____. Amend House Bill 539 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Cigarette Tax Act is amended by changing
5 Sections 2 and 3 as follows:

6 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

7 Sec. 2. Tax imposed; rate; collection, payment, and
8 distribution; discount.

9 (a) A tax is imposed upon any person engaged in business
10 as a retailer of cigarettes in this State at the rate of 5
11 1/2 mills per cigarette sold, or otherwise disposed of in the
12 course of such business in this State. In addition to any
13 other tax imposed by this Act, a tax is imposed upon any
14 person engaged in business as a retailer of cigarettes in
15 this State at a rate of 1/2 mill per cigarette sold or
16 otherwise disposed of in the course of such business in this
17 State on and after January 1, 1947, and shall be paid into
18 the Metropolitan Fair and Exposition Authority Reconstruction
19 Fund. On and after December 1, 1985, in addition to any other
20 tax imposed by this Act, a tax is imposed upon any person
21 engaged in business as a retailer of cigarettes in this State
22 at a rate of 4 mills per cigarette sold or otherwise disposed

1 of in the course of such business in this State. Of the
2 additional tax imposed by this amendatory Act of 1985,
3 \$9,000,000 of the moneys received by the Department of
4 Revenue pursuant to this Act shall be paid each month into
5 the Common School Fund. On and after the effective date of
6 this amendatory Act of 1989, in addition to any other tax
7 imposed by this Act, a tax is imposed upon any person engaged
8 in business as a retailer of cigarettes at the rate of 5
9 mills per cigarette sold or otherwise disposed of in the
10 course of such business in this State. On and after the
11 effective date of this amendatory Act of 1993, in addition to
12 any other tax imposed by this Act, a tax is imposed upon any
13 person engaged in business as a retailer of cigarettes at the
14 rate of 7 mills per cigarette sold or otherwise disposed of
15 in the course of such business in this State. On and after
16 December 15, 1997, in addition to any other tax imposed by
17 this Act, a tax is imposed upon any person engaged in
18 business as a retailer of cigarettes at the rate of 7 mills
19 per cigarette sold or otherwise disposed of in the course of
20 such business of this State. All of the moneys received by
21 the Department of Revenue pursuant to this Act and the
22 Cigarette Use Tax Act from the additional taxes imposed by
23 this amendatory Act of 1997, shall be paid each month into
24 the Common School Fund. On and after July 1, 2002, in
25 addition to any other tax imposed by this Act, a tax is
26 imposed upon any person engaged in business as a retailer of
27 cigarettes at the rate of 20.0 mills per cigarette sold or
28 otherwise disposed of in the course of such business in this
29 State. The payment of such taxes shall be evidenced by a
30 stamp affixed to each original package of cigarettes, or an
31 authorized substitute for such stamp imprinted on each
32 original package of such cigarettes underneath the sealed
33 transparent outside wrapper of such original package, as
34 hereinafter provided. However, such taxes are not imposed

1 upon any activity in such business in interstate commerce or
2 otherwise, which activity may not under the Constitution and
3 statutes of the United States be made the subject of taxation
4 by this State.

5 Beginning on the effective date of this amendatory Act of
6 the 92nd General Assembly 1998, all of the moneys received by
7 the Department of Revenue pursuant to this Act and the
8 Cigarette Use Tax Act, other than the moneys that are
9 dedicated to the Metropolitan Fair and Exposition Authority
10 Reconstruction Fund and the Common School Fund, shall be
11 distributed each month as follows: first, there shall be paid
12 into the General Revenue Fund an amount which, when added to
13 the amount paid into the Common School Fund for that month,
14 equals \$33,300,000; then, from the moneys remaining, if any
15 amounts required to be paid into the General Revenue Fund in
16 previous months remain unpaid, those amounts shall be paid
17 into the General Revenue Fund; then, beginning on April 1,
18 2003, from the moneys remaining, \$5,000,000 per month shall
19 be paid into the School Infrastructure Fund; then, if any
20 amounts required to be paid into the School Infrastructure
21 Fund in previous months remain unpaid, those amounts shall be
22 paid into the School Infrastructure Fund; then the moneys
23 remaining, if any, shall be paid into the Long-Term Care
24 Provider Fund. To the extent that more than \$25,000,000 has
25 been paid into the General Revenue Fund and Common School
26 Fund per month for the period of July 1, 1993 through the
27 effective date of this amendatory Act of 1994 from combined
28 receipts of the Cigarette Tax Act and the Cigarette Use Tax
29 Act, notwithstanding the distribution provided in this
30 Section, the Department of Revenue is hereby directed to
31 adjust the distribution provided in this Section to increase
32 the next monthly payments to the Long Term Care Provider Fund
33 by the amount paid to the General Revenue Fund and Common
34 School Fund in excess of \$25,000,000 per month and to

1 decrease the next monthly payments to the General Revenue
2 Fund and Common School Fund by that same excess amount.

3 When any tax imposed herein terminates or has terminated,
4 distributors who have bought stamps while such tax was in
5 effect and who therefore paid such tax, but who can show, to
6 the Department's satisfaction, that they sold the cigarettes
7 to which they affixed such stamps after such tax had
8 terminated and did not recover the tax or its equivalent from
9 purchasers, shall be allowed by the Department to take credit
10 for such absorbed tax against subsequent tax stamp purchases
11 from the Department by such distributor.

12 The impact of the tax levied by this Act is imposed upon
13 the retailer and shall be prepaid or pre-collected by the
14 distributor for the purpose of convenience and facility only,
15 and the amount of the tax shall be added to the price of the
16 cigarettes sold by such distributor. Collection of the tax
17 shall be evidenced by a stamp or stamps affixed to each
18 original package of cigarettes, as hereinafter provided.

19 Each distributor shall collect the tax from the retailer
20 at or before the time of the sale, shall affix the stamps as
21 hereinafter required, and shall remit the tax collected from
22 retailers to the Department, as hereinafter provided. Any
23 distributor who fails to properly collect and pay the tax
24 imposed by this Act shall be liable for the tax. Any
25 distributor having cigarettes to which stamps have been
26 affixed in his possession for sale on the effective date of
27 this amendatory Act of 1989 shall not be required to pay the
28 additional tax imposed by this amendatory Act of 1989 on such
29 stamped cigarettes. Any distributor having cigarettes to
30 which stamps have been affixed in his or her possession for
31 sale at 12:01 a.m. on the effective date of this amendatory
32 Act of 1993, is required to pay the additional tax imposed by
33 this amendatory Act of 1993 on such stamped cigarettes. This
34 payment, less the discount provided in subsection (b), shall

1 be due when the distributor first makes a purchase of
2 cigarette tax stamps after the effective date of this
3 amendatory Act of 1993, or on the first due date of a return
4 under this Act after the effective date of this amendatory
5 Act of 1993, whichever occurs first. Any distributor having
6 cigarettes to which stamps have been affixed in his
7 possession for sale on December 15, 1997 shall not be
8 required to pay the additional tax imposed by this amendatory
9 Act of 1997 on such stamped cigarettes.

10 Any distributor having cigarettes to which stamps have
11 been affixed in his or her possession for sale on July 1,
12 2002 shall not be required to pay the additional tax imposed
13 by this amendatory Act of the 92nd General Assembly on those
14 stamped cigarettes.

15 The amount of the Cigarette Tax imposed by this Act shall
16 be separately stated, apart from the price of the goods, by
17 both distributors and retailers, in all advertisements, bills
18 and sales invoices.

19 (b) The distributor shall be required to collect the
20 taxes provided under paragraph (a) hereof, and, to cover the
21 costs of such collection, shall be allowed a discount during
22 any year commencing July 1st and ending the following June
23 30th in accordance with the schedule set out hereinbelow,
24 which discount shall be allowed at the time of purchase of
25 the stamps when purchase is required by this Act, or at the
26 time when the tax is remitted to the Department without the
27 purchase of stamps from the Department when that method of
28 paying the tax is required or authorized by this Act. Prior
29 to December 1, 1985, a discount equal to 1 2/3% of the amount
30 of the tax up to and including the first \$700,000 paid
31 hereunder by such distributor to the Department during any
32 such year; 1 1/3% of the next \$700,000 of tax or any part
33 thereof, paid hereunder by such distributor to the Department
34 during any such year; 1% of the next \$700,000 of tax, or any

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

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

15 (c) The taxes herein imposed are in addition to all
16 other occupation or privilege taxes imposed by the State of
17 Illinois, or by any political subdivision thereof, or by any
18 municipal corporation.

19 (Source: P.A. 90-548, eff. 12-4-97; 90-587, eff. 7-1-98.)

20 (35 ILCS 130/3) (from Ch. 120, par. 453.3)

21 Sec. 3. Affixing tax stamp; remitting tax to the
22 Department. Payment of the taxes imposed by Section 2 of
23 this Act shall (except as hereinafter provided) be evidenced
24 by revenue tax stamps affixed to each original package of
25 cigarettes. Each distributor of cigarettes, before delivering
26 or causing to be delivered any original package of cigarettes
27 in this State to a purchaser, shall firmly affix a proper
28 stamp or stamps to each such package, or (in case of
29 manufacturers of cigarettes in original packages which are
30 contained inside a sealed transparent wrapper) shall imprint
31 the required language on the original package of cigarettes
32 beneath such outside wrapper, as hereinafter provided.

33 No stamp or imprint may be affixed to, or made upon, any

1 package of cigarettes unless that package complies with all
2 requirements of the federal Cigarette Labeling and
3 Advertising Act, 15 U.S.C. 1331 and following, for the
4 placement of labels, warnings, or any other information upon
5 a package of cigarettes that is sold within the United
6 States. Under the authority of Section 6, the Department
7 shall revoke the license of any distributor that is
8 determined to have violated this paragraph. A person may not
9 affix a stamp on a package of cigarettes, cigarette papers,
10 wrappers, or tubes if that individual package has been marked
11 for export outside the United States with a label or notice
12 in compliance with Section 290.185 of Title 27 of the Code of
13 Federal Regulations. It is not a defense to a proceeding for
14 violation of this paragraph that the label or notice has been
15 removed, mutilated, obliterated, or altered in any manner.

16 The Department, or any person authorized by the
17 Department, shall sell such stamps only to persons holding
18 valid licenses as distributors under this Act. The Department
19 may refuse to sell stamps to any person who does not comply
20 with the provisions of this Act. Beginning on the effective
21 date of this amendatory Act of the 92nd General Assembly and
22 through June 30, 2002, persons holding valid licenses as
23 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
26 prior to the effective date of this amendatory Act of the
27 92nd General Assembly.

28 Prior to December 1, 1985, the Department shall allow a
29 distributor 21 days in which to make final payment of the
30 amount to be paid for such stamps, by allowing the
31 distributor to make payment for the stamps at the time of
32 purchasing them with a draft which shall be in such form as
33 the Department prescribes, and which shall be payable within
34 21 days thereafter: Provided that such distributor has filed

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

18 On and after December 1, 1985, the Department shall allow
19 a distributor 30 days in which to make final payment of the
20 amount to be paid for such stamps, by allowing the
21 distributor to make payment for the stamps at the time of
22 purchasing them with a draft which shall be in such form as
23 the Department prescribes, and which shall be payable within
24 30 days thereafter, and beginning on January 1, 2003 and
25 thereafter, the draft shall be payable by means of electronic
26 funds transfer: Provided that such distributor has filed
27 with the Department, and has received the Department's
28 approval of, a bond, which is in addition to the bond
29 required under Section 4 of this Act, payable to the
30 Department in an amount equal to 150% of such distributor's
31 average monthly tax liability to the Department under this
32 Act during the preceding calendar year or \$750,000, whichever
33 is less, except that as to bonds filed on or after January 1,
34 1987, such additional bond shall be in an amount equal to

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

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

1 reinstate such person as a prior continuance compliance
2 taxpayer. Any taxpayer who fails to pay an admitted or
3 established liability under this Act may also be required to
4 post bond or other acceptable security with the Department
5 guaranteeing the payment of such admitted or established
6 liability.

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

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

20 (1) Such taxpayer becomes a prior continuous compliance
21 taxpayer; or

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

33 The Department may authorize distributors to affix
34 revenue tax stamps by imprinting tax meter stamps upon

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

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

1 of such cigarettes.

2 (Source: P.A. 91-246, eff. 7-22-99; 92-322, eff. 1-1-02.)

3 Section 10. The Cigarette Use Tax Act is amended by
4 changing Sections 2 and 3 as follows:

5 (35 ILCS 135/2) (from Ch. 120, par. 453.32)

6 Sec. 2. A tax is imposed upon the privilege of using
7 cigarettes in this State, at the rate of 6 mills per
8 cigarette so used. On and after December 1, 1985, in addition
9 to any other tax imposed by this Act, a tax is imposed upon
10 the privilege of using cigarettes in this State at a rate of
11 4 mills per cigarette so used. On and after the effective
12 date of this amendatory Act of 1989, in addition to any other
13 tax imposed by this Act, a tax is imposed upon the privilege
14 of using cigarettes in this State at the rate of 5 mills per
15 cigarette so used. On and after the effective date of this
16 amendatory Act of 1993, in addition to any other tax imposed
17 by this Act, a tax is imposed upon the privilege of using
18 cigarettes in this State at a rate of 7 mills per cigarette
19 so used. On and after December 15, 1997, in addition to any
20 other tax imposed by this Act, a tax is imposed upon the
21 privilege of using cigarettes in this State at a rate of 7
22 mills per cigarette so used. On and after July 1, 2002, in
23 addition to any other tax imposed by this Act, a tax is
24 imposed upon the privilege of using cigarettes in this State
25 at a rate of 20.0 mills per cigarette so used. The taxes
26 herein imposed shall be in addition to all other occupation
27 or privilege taxes imposed by the State of Illinois or by any
28 political subdivision thereof or by any municipal
29 corporation.

30 When any tax imposed herein terminates or has terminated,
31 distributors who have bought stamps while such tax was in
32 effect and who therefore paid such tax, but who can show, to

1 the Department's satisfaction, that they sold the cigarettes
2 to which they affixed such stamps after such tax had
3 terminated and did not recover the tax or its equivalent from
4 purchasers, shall be allowed by the Department to take credit
5 for such absorbed tax against subsequent tax stamp purchases
6 from the Department by such distributors.

7 When the word "tax" is used in this Act, it shall include
8 any tax or tax rate imposed by this Act and shall mean the
9 singular of "tax" or the plural "taxes" as the context may
10 require.

11 Any distributor having cigarettes to which stamps have
12 been affixed in his possession for sale on the effective date
13 of this amendatory Act of 1989 shall not be required to pay
14 the additional tax imposed by this amendatory Act of 1989 on
15 such stamped cigarettes. Any distributor having cigarettes to
16 which stamps have been affixed in his or her possession for
17 sale at 12:01 a.m. on the effective date of this amendatory
18 Act of 1993, is required to pay the additional tax imposed by
19 this amendatory Act of 1993 on such stamped cigarettes. This
20 payment shall be due when the distributor first makes a
21 purchase of cigarette tax stamps after the effective date of
22 this amendatory Act of 1993, or on the first due date of a
23 return under this Act after the effective date of this
24 amendatory Act of 1993, whichever occurs first. Once a
25 distributor tenders payment of the additional tax to the
26 Department, the distributor may purchase stamps from the
27 Department. Any distributor having cigarettes to which
28 stamps have been affixed in his possession for sale on
29 December 15, 1997 shall not be required to pay the additional
30 tax imposed by this amendatory Act of 1997 on such stamped
31 cigarettes.

32 Any distributor having cigarettes to which stamps have
33 been affixed in his or her possession for sale on July 1,
34 2002 shall not be required to pay the additional tax imposed

1 by this amendatory Act of the 92nd General Assembly on those
2 stamped cigarettes.

3 (Source: P.A. 90-548, eff. 12-4-97.)

4 (35 ILCS 135/3) (from Ch. 120, par. 453.33)

5 Sec. 3. Stamp payment. The tax hereby imposed shall be
6 collected by a distributor maintaining a place of business in
7 this State or a distributor authorized by the Department
8 pursuant to Section 7 hereof to collect the tax, and the
9 amount of the tax shall be added to the price of the
10 cigarettes sold by such distributor. Collection of the tax
11 shall be evidenced by a stamp or stamps affixed to each
12 original package of cigarettes or by an authorized substitute
13 for such stamp imprinted on each original package of such
14 cigarettes underneath the sealed transparent outside wrapper
15 of such original package, except as hereinafter provided.
16 Each distributor who is required or authorized to collect the
17 tax herein imposed, before delivering or causing to be
18 delivered any original packages of cigarettes in this State
19 to any purchaser, shall firmly affix a proper stamp or stamps
20 to each such package, or (in the case of manufacturers of
21 cigarettes in original packages which are contained inside a
22 sealed transparent wrapper) shall imprint the required
23 language on the original package of cigarettes beneath such
24 outside wrapper as hereinafter provided. Such stamp or stamps
25 need not be affixed to the original package of any cigarettes
26 with respect to which the distributor is required to affix a
27 like stamp or stamps by virtue of the Cigarette Tax Act,
28 however, and no tax imprint need be placed underneath the
29 sealed transparent wrapper of an original package of
30 cigarettes with respect to which the distributor is required
31 or authorized to employ a like tax imprint by virtue of the
32 Cigarette Tax Act.

33 No stamp or imprint may be affixed to, or made upon, any

1 package of cigarettes unless that package complies with all
2 requirements of the federal Cigarette Labeling and
3 Advertising Act, 15 U.S.C. 1331 and following, for the
4 placement of labels, warnings, or any other information upon
5 a package of cigarettes that is sold within the United
6 States. Under the authority of Section 6, the Department
7 shall revoke the license of any distributor that is
8 determined to have violated this paragraph. A person may not
9 affix a stamp on a package of cigarettes, cigarette papers,
10 wrappers, or tubes if that individual package has been marked
11 for export outside the United States with a label or notice
12 in compliance with Section 290.185 of Title 27 of the Code of
13 Federal Regulations. It is not a defense to a proceeding for
14 violation of this paragraph that the label or notice has been
15 removed, mutilated, obliterated, or altered in any manner.

16 Stamps, when required hereunder, shall be purchased from
17 the Department, or any person authorized by the Department,
18 by distributors. The Department may refuse to sell stamps to
19 any person who does not comply with the provisions of this
20 Act. Beginning on the effective date of this amendatory Act
21 of the 92nd General Assembly and through June 30, 2002,
22 persons holding valid licenses as distributors may purchase
23 cigarette tax stamps up to an amount equal to 115% of the
24 distributor's average monthly cigarette tax stamp purchases
25 over the 12 calendar months prior to the effective date of
26 this amendatory Act of the 92nd General Assembly.

27 Prior to December 1, 1985, the Department shall allow a
28 distributor 21 days in which to make final payment of the
29 amount to be paid for such stamps, by allowing the
30 distributor to make payment for the stamps at the time of
31 purchasing them with a draft which shall be in such form as
32 the Department prescribes, and which shall be payable within
33 21 days thereafter: Provided that such distributor has filed
34 with the Department, and has received the Department's

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

17 On and after December 1, 1985, the Department shall allow
18 a distributor 30 days in which to make final payment of the
19 amount to be paid for such stamps, by allowing the
20 distributor to make payment for the stamps at the time of
21 purchasing them with a draft which shall be in such form as
22 the Department prescribes, and which shall be payable within
23 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
26 with the Department, and has received the Department's
27 approval of, a bond, which is in addition to the bond
28 required under Section 4 of this Act, payable to the
29 Department in an amount equal to 150% of such distributor's
30 average monthly tax liability to the Department under this
31 Act during the preceding calendar year or \$750,000, whichever
32 is less, except that as to bonds filed on or after January 1,
33 1987, such additional bond shall be in an amount equal to
34 100% of such distributor's average monthly tax liability

1 under this Act during the preceding calendar year or
2 \$750,000, whichever is less. The bond shall be joint and
3 several and shall be in the form of a surety company bond in
4 such form as the Department prescribes, or it may be in the
5 form of a bank certificate of deposit or bank letter of
6 credit. The bond shall be conditioned upon the distributor's
7 payment of the amount of any 30-day draft which the
8 Department accepts from that distributor for the delivery of
9 stamps to that distributor under this Act. The distributor's
10 failure to pay any such draft, when due, shall also make such
11 distributor automatically liable to the Department for a
12 penalty equal to 25% of the amount of such draft.

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

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

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

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

19 (1) such Taxpayer becomes a prior continuous
20 compliance taxpayer; or

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

33 At the time of purchasing such stamps from the Department
34 when purchase is required by this Act, or at the time when

1 the tax which he has collected is remitted by a distributor
2 to the Department without the purchase of stamps from the
3 Department when that method of remitting the tax that has
4 been collected is required or authorized by this Act, the
5 distributor shall be allowed a discount during any year
6 commencing July 1 and ending the following June 30 in
7 accordance with the schedule set out hereinbelow, from the
8 amount to be paid by him to the Department for such stamps,
9 or to be paid by him to the Department on the basis of
10 monthly remittances (as the case may be), to cover the cost,
11 to such distributor, of collecting the tax herein imposed by
12 affixing such stamps to the original packages of cigarettes
13 sold by such distributor or by placing tax imprints
14 underneath the sealed transparent wrapper of original
15 packages of cigarettes sold by such distributor (as the case
16 may be): (1) Prior to December 1, 1985, a discount equal to
17 1-2/3% of the amount of the tax up to and including the first
18 \$700,000 paid hereunder by such distributor to the Department
19 during any such year; 1-1/3% of the next \$700,000 of tax or
20 any part thereof, paid hereunder by such distributor to the
21 Department during any such year; 1% of the next \$700,000 of
22 tax, or any part thereof, paid hereunder by such distributor
23 to the Department during any such year; and 2/3 of 1% of the
24 amount of any additional tax paid hereunder by such
25 distributor to the Department during any such year or (2) On
26 and after December 1, 1985, a discount equal to 1.75% of the
27 amount of the tax payable under this Act up to and including
28 the first \$3,000,000 paid hereunder by such distributor to
29 the Department during any such year and 1.5% of the amount of
30 any additional tax paid hereunder by such distributor to the
31 Department during any such year.

32 Two or more distributors that use a common means of
33 affixing revenue tax stamps or that are owned or controlled
34 by the same interests shall be treated as a single

1 distributor for the purpose of computing the discount.

2 Cigarette manufacturers who are distributors under this
3 Act, and who place their cigarettes in original packages
4 which are contained inside a sealed transparent wrapper,
5 shall be required to remit the tax which they are required to
6 collect under this Act to the Department by remitting the
7 amount thereof to the Department by the 5th day of each
8 month, covering cigarettes shipped or otherwise delivered to
9 points in Illinois to purchasers during the preceding
10 calendar month, but a distributor need not remit to the
11 Department the tax so collected by him from purchasers under
12 this Act to the extent to which such distributor is required
13 to remit the tax imposed by the Cigarette Tax Act to the
14 Department with respect to the same cigarettes. All taxes
15 upon cigarettes under this Act are a direct tax upon the
16 retail consumer and shall conclusively be presumed to be
17 precollected for the purpose of convenience and facility
18 only. Distributors who are manufacturers of cigarettes in
19 original packages which are contained inside a sealed
20 transparent wrapper, before delivering such cigarettes or
21 causing such cigarettes to be delivered in this State to
22 purchasers, shall evidence their obligation to collect and
23 remit the tax due with respect to such cigarettes by
24 imprinting language to be prescribed by the Department on
25 each original package of such cigarettes underneath the
26 sealed transparent outside wrapper of such original package,
27 in such place thereon and in such manner as the Department
28 may prescribe; provided (as stated hereinbefore) that this
29 requirement does not apply when such distributor is required
30 or authorized by the Cigarette Tax Act to place the tax
31 imprint provided for in the last paragraph of Section 3 of
32 that Act underneath the sealed transparent wrapper of such
33 original package of cigarettes. Such imprinted language shall
34 acknowledge the manufacturer's collection and payment of or

1 liability for the tax imposed by this Act with respect to
2 such cigarettes.

3 The Department shall adopt the design or designs of the
4 tax stamps and shall procure the printing of such stamps in
5 such amounts and denominations as it deems necessary to
6 provide for the affixation of the proper amount of tax stamps
7 to each original package of cigarettes.

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

23 The tax hereby imposed and not paid pursuant to this
24 Section shall be paid to the Department directly by any
25 person using such cigarettes within this State, pursuant to
26 Section 12 hereof.

27 (Source: P.A. 91-246, eff. 7-22-99; 92-322, eff. 1-1-02.)

28 Section 15. The Property Tax Code is amended by changing
29 Section 31-35 as follows:

30 (35 ILCS 200/31-35)

31 Sec. 31-35. Deposit of tax revenue. Beginning on the
32 effective date of this amendatory Act of the 92nd General

1 Assembly July--1,--1994, 50% of the moneys ~~monies~~ collected
2 under Section 31-15, 50% shall be deposited into the Illinois
3 Affordable Housing Trust Fund, 20% ~~35%~~ into the Open Space
4 Lands Acquisition and Development Fund, 5% ~~and-15%~~ into the
5 Natural Areas Acquisition Fund, and 25% into the General
6 Revenue Fund.

7 (Source: P.A. 91-555, eff. 1-1-00.)

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