

1 AN ACT concerning tobacco.

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

4 Section 1. Short Title. This Act may be cited as the  
5 Tobacco Product Manufacturers' Escrow Enforcement Act.

6 Section 5. Definitions. As used in this Act:

7 "Cigarette" means that term as defined in Section 10 of  
8 the Tobacco Product Manufacturers' Escrow Act, which includes  
9 roll-your-own tobacco.

10 "Distributor" has the same meaning as that term is  
11 defined in Section 1 of the Cigarette Tax Act, Section 1 of  
12 the Cigarette Use Tax Act, or Section 10-5 of the Tobacco  
13 Products Tax Act of 1995, as appropriate.

14 "Participating manufacturer" has the same meaning as that  
15 term is defined in subdivision (a)(1) of Section 15 of the  
16 Tobacco Product Manufacturers' Escrow Act.

17 "Qualified escrow fund" has the same meaning as that term  
18 is defined in subdivision (a)(2)(A) of Section 15 of the  
19 Tobacco Product Manufacturers' Escrow Act.

20 "Stamps or imprints" means (i) revenue tax stamps or  
21 imprints as provided for in Section 3 of the Cigarette Tax  
22 Act or (ii) stamps or imprints evidencing the payment of use  
23 tax as provided for in Section 3 of the Cigarette Use Tax  
24 Act, as appropriate.

25 "Tobacco product manufacturer" has the same meaning as  
26 that term is defined in Section 10 of the Tobacco Product  
27 Manufacturers' Escrow Act.

28 Section 15. Distributor's determination of tobacco  
29 product manufacturer compliance.

30 (a) A distributor of cigarettes under the Cigarette Tax

1 Act or the Cigarette Use Tax Act, as appropriate, may not  
2 affix or cause to be affixed stamps or imprints to individual  
3 packages of cigarettes delivered or caused to be delivered by  
4 the distributor in this State if the tobacco product  
5 manufacturer of those cigarettes has:

6 (1) failed to become a participating manufacturer,  
7 as defined in subdivision (a)(1) of Section 15 of the  
8 Tobacco Product Manufacturers' Escrow Act; or

9 (2) failed to create a qualified escrow fund for  
10 any cigarettes manufactured by the tobacco product  
11 manufacturer and sold in this State or otherwise failed  
12 to bring itself into compliance with subdivision (a)(2)  
13 of Section 15 of the Tobacco Product Manufacturers'  
14 Escrow Act.

15 (b) The Department of Revenue may revoke, suspend, or  
16 cancel the license of a distributor of roll-your-own tobacco  
17 under the Tobacco Products Tax Act of 1995 that is delivered  
18 or caused to be delivered by the distributor in this State if  
19 the tobacco product manufacturer of the roll-your-own tobacco  
20 has:

21 (1) failed to become a participating manufacturer,  
22 as defined in subdivision (a)(1) of Section 15 of the  
23 Tobacco Product Manufacturers' Escrow Act; or

24 (2) failed to create a qualified escrow fund for  
25 any roll-your-own tobacco manufactured by the tobacco  
26 product manufacturer and sold in this State or otherwise  
27 failed to bring itself into compliance with subdivision  
28 (a)(2) of Section 15 of the Tobacco Product  
29 Manufacturers' Escrow Act.

30 Section 20. Penalties. A distributor who violates this  
31 Act is subject to the same penalties as provided in Section 6  
32 of the Cigarette Tax Act, Section 6 of the Cigarette Use Tax  
33 Act, or Section 10-25 of the Tobacco Products Tax Act of

1 1995, as appropriate.

2 Section 25. Rules. The Illinois Attorney General, in  
3 consultation with the Illinois Department of Revenue, shall  
4 adopt rules as necessary to effectuate compliance with this  
5 Act.

6 Section 905. The Cigarette Tax Act is amended by  
7 changing Sections 3 and 6 as follows:

8 (35 ILCS 130/3) (from Ch. 120, par. 453.3)

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

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

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

6 The Department, or any person authorized by the  
7 Department, shall sell such stamps only to persons holding  
8 valid licenses as distributors under this Act. The Department  
9 may refuse to sell stamps to any person who does not comply  
10 with the provisions of this Act.

11 Prior to December 1, 1985, the Department shall allow a  
12 distributor 21 days in which to make final payment of the  
13 amount to be paid for such stamps, by allowing the  
14 distributor to make payment for the stamps at the time of  
15 purchasing them with a draft which shall be in such form as  
16 the Department prescribes, and which shall be payable within  
17 21 days thereafter: Provided that such distributor has filed  
18 with the Department, and has received the Department's  
19 approval of, a bond, which is in addition to the bond  
20 required under Section 4 of this Act, payable to the  
21 Department in an amount equal to 80% of such distributor's  
22 average monthly tax liability to the Department under this  
23 Act during the preceding calendar year or \$500,000, whichever  
24 is less. The Bond shall be joint and several and shall be in  
25 the form of a surety company bond in such form as the  
26 Department prescribes, or it may be in the form of a bank  
27 certificate of deposit or bank letter of credit. The bond  
28 shall be conditioned upon the distributor's payment of amount  
29 of any 21-day draft which the Department accepts from that  
30 distributor for the delivery of stamps to that distributor  
31 under this Act. The distributor's failure to pay any such  
32 draft, when due, shall also make such distributor  
33 automatically liable to the Department for a penalty equal to  
34 25% of the amount of such draft.

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

31           Every prior continuous compliance taxpayer shall be  
32   exempt from all requirements under this Section concerning  
33   the furnishing of such bond, as defined in this Section, as a  
34   condition precedent to his being authorized to engage in the

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

24 Any person aggrieved by any decision of the Department  
25 under this Section may, within the time allowed by law,  
26 protest and request a hearing, whereupon the Department shall  
27 give notice and shall hold a hearing in conformity with the  
28 provisions of this Act and then issue its final  
29 administrative decision in the matter to such person. In the  
30 absence of such a protest filed within the time allowed by  
31 law, the Department's decision shall become final without any  
32 further determination being made or notice given.

33 The Department shall discharge any surety and shall  
34 release and return any bond or security deposited, assigned,

1 pledged, or otherwise provided to it by a taxpayer under this  
2 Section within 30 days after:

3 (1) Such taxpayer becomes a prior continuous compliance  
4 taxpayer; or

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

16 The Department may authorize distributors to affix  
17 revenue tax stamps by imprinting tax meter stamps upon  
18 original packages of cigarettes. The Department shall adopt  
19 rules and regulations relating to the imprinting of such tax  
20 meter stamps as will result in payment of the proper taxes as  
21 herein imposed. No distributor may affix revenue tax stamps  
22 to original packages of cigarettes by imprinting tax meter  
23 stamps thereon unless such distributor has first obtained  
24 permission from the Department to employ this method of  
25 affixation. The Department shall regulate the use of tax  
26 meters and may, to assure the proper collection of the taxes  
27 imposed by this Act, revoke or suspend the privilege,  
28 theretofore granted by the Department to any distributor, to  
29 imprint tax meter stamps upon original packages of  
30 cigarettes.

31 Illinois cigarette manufacturers who place their  
32 cigarettes in original packages which are contained inside a  
33 sealed transparent wrapper, and similar out-of-State  
34 cigarette manufacturers who elect to qualify and are accepted

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

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

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

33 (35 ILCS 130/6) (from Ch. 120, par. 453.6)



1           Sec. 6. Revocation, cancellation, or suspension of  
2 license. The Department may, after notice and hearing as  
3 provided for by this Act, revoke, cancel or suspend the  
4 license of any distributor for the violation of any provision  
5 of this Act, or for noncompliance with any provision herein  
6 contained, or for any noncompliance with any lawful rule or  
7 regulation promulgated by the Department under Section 8 of  
8 this Act, or because the licensee is determined to be  
9 ineligible for a distributor's license for any one or more of  
10 the reasons provided for in Section 4 of this Act. However,  
11 no such license shall be revoked, cancelled or suspended,  
12 except after a hearing by the Department with notice to the  
13 distributor, as aforesaid, and affording such distributor a  
14 reasonable opportunity to appear and defend, and any  
15 distributor aggrieved by any decision of the Department with  
16 respect thereto may have the determination of the Department  
17 judicially reviewed, as herein provided.

18           The Department may revoke, cancel, or suspend the license  
19 of any distributor for a violation of the Tobacco Product  
20 Manufacturers' Escrow Enforcement Act as provided in Section  
21 20 of that Act.

22           Any distributor aggrieved by any decision of the  
23 Department under this Section may, within 20 days after  
24 notice of the decision, protest and request a hearing. Upon  
25 receiving a request for a hearing, the Department shall give  
26 notice in writing to the distributor requesting the hearing  
27 that contains a statement of the charges preferred against  
28 the distributor and that states the time and place fixed for  
29 the hearing. The Department shall hold the hearing in  
30 conformity with the provisions of this Act and then issue its  
31 final administrative decision in the matter to the  
32 distributor. In the absence of a protest and request for a  
33 hearing within 20 days, the Department's decision shall  
34 become final without any further determination being made or

1 notice given.

2 No license so revoked, as aforesaid, shall be reissued to  
3 any such distributor within a period of 6 months after the  
4 date of the final determination of such revocation. No such  
5 license shall be reissued at all so long as the person who  
6 would receive the license is ineligible to receive a  
7 distributor's license under this Act for any one or more of  
8 the reasons provided for in Section 4 of this Act.

9 The Department upon complaint filed in the circuit court  
10 may by injunction restrain any person who fails, or refuses,  
11 to comply with any of the provisions of this Act from acting  
12 as a distributor of cigarettes in this State.

13 (Source: P.A. 91-901, eff. 1-1-01.)

14 Section 910. The Cigarette Use Tax Act is amended by  
15 changing Sections 3 and 6 as follows:

16 (35 ILCS 135/3) (from Ch. 120, par. 453.33)

17 Sec. 3. Stamp payment. The tax hereby imposed shall be  
18 collected by a distributor maintaining a place of business in  
19 this State or a distributor authorized by the Department  
20 pursuant to Section 7 hereof to collect the tax, and the  
21 amount of the tax shall be added to the price of the  
22 cigarettes sold by such distributor. Collection of the tax  
23 shall be evidenced by a stamp or stamps affixed to each  
24 original package of cigarettes or by an authorized substitute  
25 for such stamp imprinted on each original package of such  
26 cigarettes underneath the sealed transparent outside wrapper  
27 of such original package, except as hereinafter provided.  
28 Each distributor who is required or authorized to collect the  
29 tax herein imposed, before delivering or causing to be  
30 delivered any original packages of cigarettes in this State  
31 to any purchaser, shall firmly affix a proper stamp or stamps  
32 to each such package, or (in the case of manufacturers of

1 cigarettes in original packages which are contained inside a  
2 sealed transparent wrapper) shall imprint the required  
3 language on the original package of cigarettes beneath such  
4 outside wrapper as hereinafter provided. Such stamp or stamps  
5 need not be affixed to the original package of any cigarettes  
6 with respect to which the distributor is required to affix a  
7 like stamp or stamps by virtue of the Cigarette Tax Act,  
8 however, and no tax imprint need be placed underneath the  
9 sealed transparent wrapper of an original package of  
10 cigarettes with respect to which the distributor is required  
11 or authorized to employ a like tax imprint by virtue of the  
12 Cigarette Tax Act.

13 No stamp or imprint may be affixed to, or made upon, any  
14 package of cigarettes unless that package complies with all  
15 requirements of the federal Cigarette Labeling and  
16 Advertising Act, 15 U.S.C. 1331 and following, for the  
17 placement of labels, warnings, or any other information upon  
18 a package of cigarettes that is sold within the United  
19 States. Under the authority of Section 6, the Department  
20 shall revoke the license of any distributor that is  
21 determined to have violated this paragraph. A person may not  
22 affix a stamp on a package of cigarettes, cigarette papers,  
23 wrappers, or tubes if that individual package has been marked  
24 for export outside the United States with a label or notice  
25 in compliance with Section 290.185 of Title 27 of the Code of  
26 Federal Regulations. It is not a defense to a proceeding for  
27 violation of this paragraph that the label or notice has been  
28 removed, mutilated, obliterated, or altered in any manner.

29 Stamps, when required hereunder, shall be purchased from  
30 the Department, or any person authorized by the Department,  
31 by distributors. The Department may refuse to sell stamps to  
32 any person who does not comply with the provisions of this  
33 Act.

34 Prior to December 1, 1985, the Department shall allow a

1 distributor 21 days in which to make final payment of the  
2 amount to be paid for such stamps, by allowing the  
3 distributor to make payment for the stamps at the time of  
4 purchasing them with a draft which shall be in such form as  
5 the Department prescribes, and which shall be payable within  
6 21 days thereafter: Provided that such distributor has filed  
7 with the Department, and has received the Department's  
8 approval of, a bond, which is in addition to the bond  
9 required under Section 4 of this Act, payable to the  
10 Department in an amount equal to 80% of such distributor's  
11 average monthly tax liability to the Department under this  
12 Act during the preceding calendar year or \$500,000, whichever  
13 is less. The bond shall be joint and several and shall be in  
14 the form of a surety company bond in such form as the  
15 Department prescribes, or it may be in the form of a bank  
16 certificate of deposit or bank letter of credit. The bond  
17 shall be conditioned upon the distributor's payment of the  
18 amount of any 21-day draft which the Department accepts from  
19 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, the Department shall allow  
25 a distributor 30 days in which to make final payment of the  
26 amount to be paid for such stamps, by allowing the  
27 distributor to make payment for the stamps at the time of  
28 purchasing them with a draft which shall be in such form as  
29 the Department prescribes, and which shall be payable within  
30 30 days thereafter, and beginning on January 1, 2003 and  
31 thereafter, the draft shall be payable by means of electronic  
32 funds transfer: Provided that such distributor has filed  
33 with the Department, and has received the Department's  
34 approval of, a bond, which is in addition to the bond

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

20 Every prior continuous compliance taxpayer shall be  
21 exempt from all requirements under this Section concerning  
22 the 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  
25 continue for each such taxpayer until such time as he may be  
26 determined by the Department to be delinquent in the filing  
27 of any returns, or is determined by the Department (either  
28 through the Department's issuance of a final assessment which  
29 has become final under the Act, or by the taxpayer's filing  
30 of a return which admits tax to be due that is not paid) to  
31 be delinquent or deficient in the paying of any tax under  
32 this Act, at which time that taxpayer shall become subject to  
33 the bond requirements of this Section and, as a condition of  
34 being allowed to continue to engage in the business licensed

1 under this Act, shall be required to furnish bond to the  
2 Department in such form as provided in this Section. Such  
3 taxpayer shall furnish such bond for a period of 2 years,  
4 after which, if the taxpayer has not been delinquent in the  
5 filing of any returns, or delinquent or deficient in the  
6 paying of any tax under this Act, the Department may  
7 reinstate such person as a prior continuance compliance  
8 taxpayer. Any taxpayer who fails to pay an admitted or  
9 established liability under this Act may also be required to  
10 post bond or other acceptable security with the Department  
11 guaranteeing the payment of such admitted or established  
12 liability.

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

22 The Department shall discharge any surety and shall  
23 release and return any bond or security deposited, assigned,  
24 pledged, or otherwise provided to it by a taxpayer under this  
25 Section within 30 days after:

26 (1) such Taxpayer becomes a prior continuous  
27 compliance taxpayer; or

28 (2) such taxpayer has ceased to collect receipts on  
29 which he is required to remit tax to the Department, has  
30 filed a final tax return, and has paid to the Department  
31 an amount sufficient to discharge his remaining tax  
32 liability as determined by the Department under this Act.

33 The Department shall make a final determination of the  
34 taxpayer's outstanding tax liability as expeditiously as

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

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

1 the first \$3,000,000 paid hereunder by such distributor to  
2 the Department during any such year and 1.5% of the amount of  
3 any additional tax paid hereunder by such distributor to the  
4 Department during any such year.

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

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



1 may prescribe; provided (as stated hereinbefore) that this  
2 requirement does not apply when such distributor is required  
3 or authorized by the Cigarette Tax Act to place the tax  
4 imprint provided for in the last paragraph of Section 3 of  
5 that Act underneath the sealed transparent wrapper of such  
6 original package of cigarettes. Such imprinted language shall  
7 acknowledge the manufacturer's collection and payment of or  
8 liability for the tax imposed by this Act with respect to  
9 such cigarettes.

10 The Department shall adopt the design or designs of the  
11 tax stamps and shall procure the printing of such stamps in  
12 such amounts and denominations as it deems necessary to  
13 provide for the affixation of the proper amount of tax stamps  
14 to each original package of cigarettes.

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

30 The tax hereby imposed and not paid pursuant to this  
31 Section shall be paid to the Department directly by any  
32 person using such cigarettes within this State, pursuant to  
33 Section 12 hereof.

34 A distributor shall not affix, or cause to be affixed,

1 any stamp or imprint to a package of cigarettes, as provided  
2 for in this Section, if the tobacco product manufacturer, as  
3 defined in Section 10 of the Tobacco Product Manufacturers'  
4 Escrow Act, that made or sold the cigarettes has failed to  
5 become a participating manufacturer, as defined in  
6 subdivision (a)(1) of Section 15 of the Tobacco Product  
7 Manufacturers' Escrow Act, or has failed to create a  
8 qualified escrow fund for any cigarettes manufactured by the  
9 tobacco product manufacturer and sold in this State or  
10 otherwise failed to bring itself into compliance with  
11 subdivision (a)(2) of Section 15 of the Tobacco Product  
12 Manufacturers' Escrow Act.

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

14 (35 ILCS 135/6) (from Ch. 120, par. 453.36)

15 Sec. 6. Revocation, cancellation, or suspension of  
16 license. The Department may, after notice and hearing as  
17 provided for by this Act, revoke, cancel or suspend the  
18 license of any distributor for the violation of any provision  
19 of this Act, or for non-compliance with any provision herein  
20 contained, or for any non-compliance with any lawful rule or  
21 regulation promulgated by the Department under Section 21 of  
22 this Act, or because the licensee is determined to be  
23 ineligible for a distributor's license for any one or more of  
24 the reasons provided for in Section 4 of this Act. However,  
25 no such license shall be revoked, canceled or suspended,  
26 except after a hearing by the Department with notice to the  
27 distributor, as aforesaid, and affording such distributor a  
28 reasonable opportunity to appear and defend, and any  
29 distributor aggrieved by any decision of the Department with  
30 respect thereto may have the determination of the Department  
31 judicially reviewed, as herein provided.

32 The Department may revoke, cancel, or suspend the license  
33 of any distributor for a violation of the Tobacco Product

1 Manufacturers' Escrow Enforcement Act as provided in Section  
2 20 of that Act.

3 Any distributor aggrieved by any decision of the  
4 Department under this Section may, within 20 days after  
5 notice of the decision, protest and request a hearing. Upon  
6 receiving a request for a hearing, the Department shall give  
7 notice in writing to the distributor requesting the hearing  
8 that contains a statement of the charges preferred against  
9 the distributor and that states the time and place fixed for  
10 the hearing. The Department shall hold the hearing in  
11 conformity with the provisions of this Act and then issue its  
12 final administrative decision in the matter to the  
13 distributor. In the absence of a protest and request for a  
14 hearing within 20 days, the Department's decision shall  
15 become final without any further determination being made or  
16 notice given.

17 No license so revoked, shall be reissued to any such  
18 distributor within a period of 6 months after the date of the  
19 final determination of such revocation. No such license  
20 shall be reissued at all so long as the person who would  
21 receive the license is ineligible to receive a distributor's  
22 license under this Act for any one or more of the reasons  
23 provided for in Section 4 of this Act.

24 The Department upon complaint filed in the circuit court  
25 may by injunction restrain any person who fails, or refuses,  
26 to comply with this Act from acting as a distributor of  
27 cigarettes in this State.

28 (Source: P.A. 91-901, eff. 1-1-01.)

29 Section 915. The Tobacco Products Tax Act of 1995 is  
30 amended by changing Sections 10-20 and 10-25 as follows:

31 (35 ILCS 143/10-20)

32 Sec. 10-20. Licenses. It shall be unlawful for any

1 person to engage in business as a distributor of tobacco  
2 products within the meaning of this Act without first having  
3 obtained a license to do so from the Department. Application  
4 for that license shall be made to the Department in a form  
5 prescribed and furnished by the Department. Each applicant  
6 for a license shall furnish to the Department on a form,  
7 signed and verified by the applicant, the following  
8 information:

9 (1) The name of the applicant.

10 (2) The address of the location at which the  
11 applicant proposes to engage in business as a distributor  
12 of tobacco products.

13 (3) Other information the Department may reasonably  
14 require.

15 Except as otherwise provided in this Section, every  
16 applicant who is required to procure a distributor's license  
17 shall file with his or her application a joint and several  
18 bond. The bond shall be executed to the Department of  
19 Revenue, with good and sufficient surety or sureties residing  
20 or licensed to do business within the State of Illinois,  
21 conditioned upon the true and faithful compliance by the  
22 licensee with all of the provisions of this Act. The  
23 Department shall fix the amount of the bond for each  
24 applicant, taking into consideration the amount of money  
25 expected to become due from the applicant under this Act.  
26 The amount of bond required by the Department shall be an  
27 amount that, in its opinion, will protect the State of  
28 Illinois against failure to pay the amount that may become  
29 due from the applicant under this Act, but the amount of the  
30 security required by the Department shall not exceed 3 times  
31 the amount of the applicant's average monthly tax liability,  
32 or \$50,000, whichever amount is lower. The bond, a reissue,  
33 or a substitute shall be kept in full force and effect during  
34 the entire period covered by the license. A separate

1 application for license shall be made, and bond filed, for  
2 each place of business at which a person who is required to  
3 procure a distributor's license proposes to engage in  
4 business as a distributor under this Act.

5 The Department, upon receipt of an application and bond  
6 in proper form, shall issue to the applicant a license, in a  
7 form prescribed by the Department, which shall permit the  
8 applicant to whom it is issued to engage in business as a  
9 distributor at the place shown on his or her application.  
10 The license shall be issued by the Department without charge  
11 or cost to the applicant. No license issued under this Act  
12 is transferable or assignable. The license shall be  
13 conspicuously displayed in the place of business conducted by  
14 the licensee under the license.

15 The bonding requirement in this Section does not apply to  
16 an applicant for a distributor's license who is already  
17 bonded under the Cigarette Tax Act or the Cigarette Use Tax  
18 Act. Licenses issued by the Department under this Act shall  
19 be valid for a period not to exceed one year after issuance  
20 unless sooner revoked, canceled, or suspended as provided in  
21 this Act.

22 No license shall be issued to any person who is in  
23 default to the State of Illinois for moneys due under this  
24 Act or any other tax Act administered by the Department.

25 The Department may, in its discretion, upon application,  
26 authorize the payment of the tax imposed under Section 10-10  
27 by any distributor or manufacturer not otherwise subject to  
28 the tax imposed under this Act who, to the satisfaction of  
29 the Department, furnishes adequate security to ensure payment  
30 of the tax. The distributor or manufacturer shall be issued,  
31 without charge, a license to remit the tax. When so  
32 authorized, it shall be the duty of the distributor or  
33 manufacturer to remit the tax imposed upon the wholesale  
34 price of tobacco products sold or otherwise disposed of to

1 retailers or consumers located in this State, in the same  
2 manner and subject to the same requirements as any other  
3 distributor or manufacturer licensed under this Act.

4 The Department may revoke, suspend, or cancel the license  
5 of a distributor of roll-your-own tobacco (as that term is  
6 used in Section 10 of the Tobacco Product Manufacturers'  
7 Escrow Act) under this Act if the tobacco product  
8 manufacturer, as defined in Section 10 of the Tobacco Product  
9 Manufacturers' Escrow Act, that made or sold the  
10 roll-your-own tobacco has failed to become a participating  
11 manufacturer, as defined in subdivision (a)(1) of Section 15  
12 of the Tobacco Product Manufacturers' Escrow Act, or has  
13 failed to create a qualified escrow fund for any  
14 roll-your-own tobacco manufactured by the tobacco product  
15 manufacturer and sold in this State or otherwise failed to  
16 bring itself into compliance with subdivision (a)(2) of  
17 Section 15 of the Tobacco Product Manufacturers' Escrow Act.

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

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

29 (35 ILCS 143/10-25)

30 Sec. 10-25. License actions. The Department may, after  
31 notice and a hearing, revoke, cancel, or suspend the license  
32 of any distributor who violates any of the provisions of this  
33 Act. The notice shall specify the alleged violation or

1 violations upon which the revocation, cancellation, or  
2 suspension proceeding is based.

3 The Department may revoke, cancel, or suspend the license  
4 of any distributor for a violation of the Tobacco Product  
5 Manufacturers' Escrow Enforcement Act as provided in Section  
6 20 of that Act.

7 The Department may, by application to any circuit court,  
8 obtain an injunction restraining any person who engages in  
9 business as a distributor of tobacco products without a  
10 license (either because his or her license has been revoked,  
11 canceled, or suspended or because of a failure to obtain a  
12 license in the first instance) from engaging in that business  
13 until that person, as if that person were a new applicant for  
14 a license, complies with all of the conditions, restrictions,  
15 and requirements of Section 10-20 of this Act and qualifies  
16 for and obtains a license. Refusal or neglect to obey the  
17 order of the court may result in punishment for contempt.

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

19 Section 999. Effective date. This Act takes effect upon  
20 becoming law.