



Sen. Ira I. Silverstein

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1 AMENDMENT TO SENATE BILL 2148

2 AMENDMENT NO. _____. Amend Senate Bill 2148 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Prevention of Cigarette Sales to Minors Act.

6 Section 5. Unlawful shipment or transportation of
7 cigarettes.

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

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

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

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

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

7 (b) A common or contract carrier may transport cigarettes
8 to any individual person in this State only if the carrier
9 reasonably believes such cigarettes have been received from a
10 person described in paragraph (a)(1). Common or contract
11 carriers may make deliveries of cigarettes to licensed
12 distributors described in paragraph (a)(1) of this Section.
13 Nothing in this subsection (b) shall be construed to prohibit a
14 person other than a common or contract carrier from
15 transporting not more than 200 cigarettes at any one time to
16 any person in this State.

17 (c) A common or contract carrier may not complete the
18 delivery of any cigarettes to persons other than those
19 described in paragraph (a)(1) of this Section without first
20 obtaining from the purchaser an official written
21 identification from any state or federal agency that displays
22 the person's date of birth or a birth certificate that includes
23 a reliable confirmation that the purchaser is at least 18 years
24 of age; that the cigarettes purchased are not intended for
25 consumption by an individual who is younger than 18 years of
26 age; and a written statement signed by the purchaser that
27 certifies the purchaser's address and that the purchaser is at
28 least 18 years of age. The statement shall also confirm: (1)
29 that the purchaser understands that signing another person's
30 name to the certification is illegal; (2) that the sale of
31 cigarettes to individuals under 18 years of age is illegal; and
32 (3) that the purchase of cigarettes by individuals under 18
33 years of age is illegal under the laws of Illinois.

34 (d) When a person engaged in the business of selling

1 cigarettes ships or causes to be shipped any cigarettes to any
2 person in this State, other than in the cigarette
3 manufacturer's or tobacco products manufacturer's original
4 container or wrapping, the container or wrapping must be
5 plainly and visibly marked with the word "cigarettes".

6 (e) When a peace officer of this State or any duly
7 authorized officer or employee of the Illinois Department of
8 Public Health or Department of Revenue discovers any cigarettes
9 which have been or which are being shipped or transported in
10 violation of this Section, he or she shall seize and take
11 possession of the cigarettes, and the cigarettes shall be
12 subject to a forfeiture action pursuant to the procedures
13 provided under the Cigarette Tax Act or Cigarette Use Tax Act.

14 Section 10. Violation.

15 (a) A person who violates subsection (a), (b), or (c) of
16 Section 5 is guilty of a Class A misdemeanor. A second or
17 subsequent violation of subsection (a), (b), or (c) of Section
18 5 is a Class 4 felony.

19 (b) The Department of Revenue shall impose a civil penalty
20 not to exceed \$5,000 on any person who violates subsection (a),
21 (b), or (c) of Section 5. The Department of Revenue shall
22 impose a civil penalty not to exceed \$5,000 on any person
23 engaged in the business of selling cigarettes who ships or
24 causes to be shipped any such cigarettes to any person in this
25 State in violation of subsection (d) of Section 5.

26 (c) Any person aggrieved by any decision of the Department
27 of Revenue may, within 60 days after notice of that decision,
28 protest in writing and request a hearing. The Department of
29 Revenue shall give notice to the person of the time and place
30 for the hearing and shall hold a hearing before it issues a
31 final administrative decision. Absent a written protest within
32 60 days, the Department's decision shall become final without
33 any further determination made or notice given.

1 Section 99. Effective date. This Act takes effect July 1,
2 2004.".