



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4602

by Rep. William B. Black

SYNOPSIS AS INTRODUCED:

35 ILCS 130/1	from Ch. 120, par. 453.1
35 ILCS 130/2	from Ch. 120, par. 453.2
35 ILCS 135/1	from Ch. 120, par. 453.31
35 ILCS 135/2	from Ch. 120, par. 453.32
35 ILCS 135/12	from Ch. 120, par. 453.42

If and only if Senate Bill 44 of the 96th General Assembly becomes law, amends the Cigarette Tax Act and the Cigarette Use Tax Act. Provides that the additional taxes are imposed as follows: an additional 25 mills per cigarette on September 1, 2009; an additional 12.5 mills per cigarette on September 1, 2010; and an additional 12.5 mills per cigarette on September 1, 2011. Makes changes concerning payments by retailers and distributors who have stamped cigarettes in their possession when the additional taxes take effect on September 1, 2009, September 1, 2010, and September 1, 2011. In the Cigarette Use Tax Act, provides that the additional tax that takes effect on September 1, 2010 is imposed on the privilege of using cigarettes in the State (instead of on retailers). Makes changes to the definition of "cigarette". Makes other changes. Effective immediately.

LRB096 13497 HLH 28231 b

FISCAL NOTE ACT
MAY APPLY

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. If and only if Senate Bill 44 of the 96th
5 General Assembly becomes law in the form it passed the Senate,
6 the Cigarette Tax Act is amended by changing Sections 1 and 2
7 as follows:

8 (35 ILCS 130/1) (from Ch. 120, par. 453.1)

9 Sec. 1. For the purposes of this Act:

10 "Cigarette", when used in this Act, shall be construed to
11 mean: Any roll for smoking made wholly or in part of tobacco
12 irrespective of size or shape and whether or not such tobacco
13 is flavored, adulterated or mixed with any other ingredient,
14 and the wrapper or cover of which is made of paper ~~or any other~~
15 ~~substance or material except whole tobacco leaf.~~

16 "Cigarette" when used in this Act, shall also be construed
17 to mean: any roll for smoking made wholly or in part of tobacco
18 labeled as anything other than a cigarette or not bearing a
19 label, if it meets 2 or more of the following criteria:

20 (a) the product is sold in packs similar to cigarettes;

21 (b) the product is available for sale in cartons of 10
22 packs;

23 (c) the product is sold in soft packs, hard packs, flip-top

1 boxes, clam shells, or other cigarette-type boxes;

2 (d) the product is of a length and diameter found in
3 commercially-manufactured cigarettes;

4 (e) the product has a cellulose acetate or other integrated
5 filter;

6 (f) the product weighs less than 3 pounds per thousand
7 sticks;

8 (g) the product is marketed or advertised to consumers as a
9 cigarette or cigarette substitute; or

10 (h) there is other evidence that the product fits within
11 the definition of cigarette.

12 "Person" means any natural individual, firm, partnership,
13 association, joint stock company, joint adventure, public or
14 private corporation, however formed, limited liability
15 company, or a receiver, executor, administrator, trustee,
16 guardian or other representative appointed by order of any
17 court.

18 "Prior Continuous Compliance Taxpayer" means any person
19 who is licensed under this Act and who, having been a licensee
20 for a continuous period of 5 years, is determined by the
21 Department not to have been either delinquent or deficient in
22 the payment of tax liability during that period or otherwise in
23 violation of this Act. Also, any taxpayer who has, as verified
24 by the Department, continuously complied with the condition of
25 his bond or other security under provisions of this Act for a
26 period of 5 consecutive years shall be considered to be a

1 "Prior continuous compliance taxpayer". In calculating the
2 consecutive period of time described herein for qualification
3 as a "prior continuous compliance taxpayer", a consecutive
4 period of time of qualifying compliance immediately prior to
5 the effective date of this amendatory Act of 1987 shall be
6 credited to any licensee who became licensed on or before the
7 effective date of this amendatory Act of 1987.

8 "Department" means the Department of Revenue.

9 "Sale" means any transfer, exchange or barter in any manner
10 or by any means whatsoever for a consideration, and includes
11 and means all sales made by any person.

12 "Original Package" means the individual packet, box or
13 other container whatsoever used to contain and to convey
14 cigarettes to the consumer.

15 "Distributor" means any and each of the following:

16 (1) Any person engaged in the business of selling
17 cigarettes in this State who brings or causes to be brought
18 into this State from without this State any original
19 packages of cigarettes, on which original packages there is
20 no authorized evidence underneath a sealed transparent
21 wrapper showing that the tax liability imposed by this Act
22 has been paid or assumed by the out-of-State seller of such
23 cigarettes, for sale or other disposition in the course of
24 such business.

25 (2) Any person who makes, manufactures or fabricates
26 cigarettes in this State for sale in this State, except a

1 person who makes, manufactures or fabricates cigarettes as
2 a part of a correctional industries program for sale to
3 residents incarcerated in penal institutions or resident
4 patients of a State-operated mental health facility.

5 (3) Any person who makes, manufactures or fabricates
6 cigarettes outside this State, which cigarettes are placed
7 in original packages contained in sealed transparent
8 wrappers, for delivery or shipment into this State, and who
9 elects to qualify and is accepted by the Department as a
10 distributor under Section 4b of this Act.

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

16 "Business" means any trade, occupation, activity or
17 enterprise engaged in for the purpose of selling cigarettes in
18 this State.

19 "Retailer" means any person who engages in the making of
20 transfers of the ownership of, or title to, cigarettes to a
21 purchaser for use or consumption and not for resale in any
22 form, for a valuable consideration. "Retailer" does not include
23 a person:

24 (1) who transfers to residents incarcerated in penal
25 institutions or resident patients of a State-operated
26 mental health facility ownership of cigarettes made,

1 manufactured, or fabricated as part of a correctional
2 industries program; or

3 (2) who transfers cigarettes to a not-for-profit
4 research institution that conducts tests concerning the
5 health effects of tobacco products and who does not offer
6 the cigarettes for resale.

7 "Retailer" shall be construed to include any person who
8 engages in the making of transfers of the ownership of, or
9 title to, cigarettes to a purchaser, for use or consumption by
10 any other person to whom such purchaser may transfer the
11 cigarettes without a valuable consideration, except a person
12 who transfers to residents incarcerated in penal institutions
13 or resident patients of a State-operated mental health facility
14 ownership of cigarettes made, manufactured or fabricated as
15 part of a correctional industries program.

16 (Source: P.A. 95-462, eff. 8-27-07; 09600SB0044eng.)

17 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

18 Sec. 2. Tax imposed; rate; collection, payment, and
19 distribution; discount.

20 (a) A tax is imposed upon any person engaged in business as
21 a retailer of cigarettes in this State at the rate of 5 1/2
22 mills per cigarette sold, or otherwise disposed of in the
23 course of such business in this State. In addition to any other
24 tax imposed by this Act, a tax is imposed upon any person
25 engaged in business as a retailer of cigarettes in this State

1 at a rate of 1/2 mill per cigarette sold or otherwise disposed
2 of in the course of such business in this State on and after
3 January 1, 1947, and shall be paid into the Metropolitan Fair
4 and Exposition Authority Reconstruction Fund or as otherwise
5 provided in Section 29. On and after December 1, 1985, in
6 addition to any other tax imposed by this Act, a tax is imposed
7 upon any person engaged in business as a retailer of cigarettes
8 in this State at a rate of 4 mills per cigarette sold or
9 otherwise disposed of in the course of such business in this
10 State. Of the additional tax imposed by this amendatory Act of
11 1985, \$9,000,000 of the moneys received by the Department of
12 Revenue pursuant to this Act shall be paid each month into the
13 Common School Fund. On and after the effective date of this
14 amendatory Act of 1989, in addition to any other tax imposed by
15 this Act, a tax is imposed upon any person engaged in business
16 as a retailer of cigarettes at the rate of 5 mills per
17 cigarette sold or otherwise disposed of in the course of such
18 business in this State. On and after the effective date of this
19 amendatory Act of 1993, in addition to any other tax imposed by
20 this Act, a tax is imposed upon any person engaged in business
21 as a retailer of cigarettes at the rate of 7 mills per
22 cigarette sold or otherwise disposed of in the course of such
23 business in this State. On and after December 15, 1997, in
24 addition to any other tax imposed by this Act, a tax is imposed
25 upon any person engaged in business as a retailer of cigarettes
26 at the rate of 7 mills per cigarette sold or otherwise disposed

1 of in the course of such business of this State. All of the
2 moneys received by the Department of Revenue pursuant to this
3 Act and the Cigarette Use Tax Act from the additional taxes
4 imposed by this amendatory Act of 1997, shall be paid each
5 month into the Common School Fund. On and after July 1, 2002,
6 in addition to any other tax imposed by this Act, a tax is
7 imposed upon any person engaged in business as a retailer of
8 cigarettes at the rate of 20.0 mills per cigarette sold or
9 otherwise disposed of in the course of such business in this
10 State. Beginning on September 1, 2009, in addition to any other
11 tax imposed by this Act, a tax is imposed upon any person
12 engaged in business as a retailer of cigarettes at the rate of
13 25 mills per cigarette sold or otherwise disposed of in the
14 course of such business in this State. Beginning on September
15 1, 2010, in addition to any other tax imposed by this Act, a
16 tax is imposed upon any person engaged in business as a
17 retailer of cigarettes at the rate of 12.5 ~~25~~ mills per
18 cigarette sold or otherwise disposed of in the course of such
19 business in this State. Beginning on September 1, 2011, in
20 addition to any other tax imposed by this Act, a tax is imposed
21 upon any person engaged in business as a retailer of cigarettes
22 at the rate of 12.5 mills per cigarette sold or otherwise
23 disposed of in the course of such business in this State. Of
24 the moneys received by the Department of Revenue under this Act
25 and the Cigarette Use Tax Act from the additional taxes imposed
26 by this amendatory Act of the 96th General Assembly: (i)

1 \$54,167 must be paid each month into the Tax Compliance and
2 Administration Fund for the purpose of cigarette and tobacco
3 related enforcement, retail inspections, and prevention of
4 internet and interstate trafficking of contraband cigarettes,
5 and (ii) the balance must be paid each month into the
6 Healthcare Provider Relief Fund. The payment of such taxes
7 shall be evidenced by a stamp affixed to each original package
8 of cigarettes, or an authorized substitute for such stamp
9 imprinted on each original package of such cigarettes
10 underneath the sealed transparent outside wrapper of such
11 original package, as hereinafter provided. However, such taxes
12 are not imposed upon any activity in such business in
13 interstate commerce or otherwise, which activity may not under
14 the Constitution and statutes of the United States be made the
15 subject of taxation by this State.

16 Beginning on the effective date of this amendatory Act of
17 the 92nd General Assembly and through June 30, 2006, all of the
18 moneys received by the Department of Revenue pursuant to this
19 Act and the Cigarette Use Tax Act, other than the moneys that
20 are dedicated to the Common School Fund, shall be distributed
21 each month as follows: first, there shall be paid into the
22 General Revenue Fund an amount which, when added to the amount
23 paid into the Common School Fund for that month, equals
24 \$33,300,000, except that in the month of August of 2004, this
25 amount shall equal \$83,300,000; then, from the moneys
26 remaining, if any amounts required to be paid into the General

1 Revenue Fund in previous months remain unpaid, those amounts
2 shall be paid into the General Revenue Fund; then, beginning on
3 April 1, 2003, from the moneys remaining, \$5,000,000 per month
4 shall be paid into the School Infrastructure Fund; then, if any
5 amounts required to be paid into the School Infrastructure Fund
6 in previous months remain unpaid, those amounts shall be paid
7 into the School Infrastructure Fund; then the moneys remaining,
8 if any, shall be paid into the Long-Term Care Provider Fund. To
9 the extent that more than \$25,000,000 has been paid into the
10 General Revenue Fund and Common School Fund per month for the
11 period of July 1, 1993 through the effective date of this
12 amendatory Act of 1994 from combined receipts of the Cigarette
13 Tax Act and the Cigarette Use Tax Act, notwithstanding the
14 distribution provided in this Section, the Department of
15 Revenue is hereby directed to adjust the distribution provided
16 in this Section to increase the next monthly payments to the
17 Long Term Care Provider Fund by the amount paid to the General
18 Revenue Fund and Common School Fund in excess of \$25,000,000
19 per month and to decrease the next monthly payments to the
20 General Revenue Fund and Common School Fund by that same excess
21 amount.

22 Beginning on July 1, 2006, all of the moneys received by
23 the Department of Revenue pursuant to this Act and the
24 Cigarette Use Tax Act, other than the moneys that are dedicated
25 to the Common School Fund and, beginning on the effective date
26 of this amendatory Act of the 96th General Assembly, other than

1 the moneys from the additional taxes imposed by this amendatory
2 Act of the 96th General Assembly that must be paid each month
3 into the Tax Compliance and Administration Fund and the
4 Healthcare Provider Relief Fund, shall be distributed each
5 month as follows: first, there shall be paid into the General
6 Revenue Fund an amount that, when added to the amount paid into
7 the Common School Fund for that month, equals \$29,200,000;
8 then, from the moneys remaining, if any amounts required to be
9 paid into the General Revenue Fund in previous months remain
10 unpaid, those amounts shall be paid into the General Revenue
11 Fund; then from the moneys remaining, \$5,000,000 per month
12 shall be paid into the School Infrastructure Fund; then, if any
13 amounts required to be paid into the School Infrastructure Fund
14 in previous months remain unpaid, those amounts shall be paid
15 into the School Infrastructure Fund; then the moneys remaining,
16 if any, shall be paid into the Long-Term Care Provider Fund.

17 When any tax imposed herein terminates or has terminated,
18 distributors who have bought stamps while such tax was in
19 effect and who therefore paid such tax, but who can show, to
20 the Department's satisfaction, that they sold the cigarettes to
21 which they affixed such stamps after such tax had terminated
22 and did not recover the tax or its equivalent from purchasers,
23 shall be allowed by the Department to take credit for such
24 absorbed tax against subsequent tax stamp purchases from the
25 Department by such distributor.

26 The impact of the tax levied by this Act is imposed upon

1 the retailer and shall be prepaid or pre-collected by the
2 distributor for the purpose of convenience and facility only,
3 and the amount of the tax shall be added to the price of the
4 cigarettes sold by such distributor. Collection of the tax
5 shall be evidenced by a stamp or stamps affixed to each
6 original package of cigarettes, as hereinafter provided.

7 Each distributor shall collect the tax from the retailer at
8 or before the time of the sale, shall affix the stamps as
9 hereinafter required, and shall remit the tax collected from
10 retailers to the Department, as hereinafter provided. Any
11 distributor who fails to properly collect and pay the tax
12 imposed by this Act shall be liable for the tax. Any
13 distributor having cigarettes to which stamps have been affixed
14 in his possession for sale on the effective date of this
15 amendatory Act of 1989 shall not be required to pay the
16 additional tax imposed by this amendatory Act of 1989 on such
17 stamped cigarettes. Any distributor having cigarettes to which
18 stamps have been affixed in his or her possession for sale at
19 12:01 a.m. on the effective date of this amendatory Act of
20 1993, is required to pay the additional tax imposed by this
21 amendatory Act of 1993 on such stamped cigarettes. This
22 payment, less the discount provided in subsection (b), shall be
23 due when the distributor first makes a purchase of cigarette
24 tax stamps after the effective date of this amendatory Act of
25 1993, or on the first due date of a return under this Act after
26 the effective date of this amendatory Act of 1993, whichever

1 occurs first. Any distributor having cigarettes to which stamps
2 have been affixed in his possession for sale on December 15,
3 1997 shall not be required to pay the additional tax imposed by
4 this amendatory Act of 1997 on such stamped cigarettes.

5 Any distributor having cigarettes to which stamps have been
6 affixed in his or her possession for sale on July 1, 2002 shall
7 not be required to pay the additional tax imposed by this
8 amendatory Act of the 92nd General Assembly on those stamped
9 cigarettes. Any retailer having cigarettes in his or her
10 possession on September 1, 2009 to which tax stamps have been
11 affixed is not required to pay the additional tax that begins
12 of September 1, 2009 imposed by an amendatory Act of the 96th
13 General Assembly on those stamped cigarettes. Any distributor
14 having cigarettes in his or her possession on September 1, 2009
15 to which tax stamps have been affixed is required to pay the
16 additional tax that begins on September 1, 2009 imposed by an
17 amendatory Act of the 96th General Assembly to the extent the
18 calendar year 2009 average monthly volume of cigarette stamps
19 in the distributor's possession exceeds the average monthly
20 volume of cigarette stamps purchased by the distributor in
21 calendar year 2008. This payment, less the discount provided in
22 subsection (b), is due when the distributor first makes a
23 purchase of cigarette stamps on or after September 1, 2009 or
24 on the first due date of a return under this Act occurring on
25 or after September 1, 2009, whichever occurs first.

26 Any retailer having cigarettes in his or her possession on

1 September 1, 2010 to which tax stamps have been affixed is not
2 required to pay the additional tax that begins on September 1,
3 2010 imposed by an amendatory Act of the 96th General Assembly
4 on those stamped cigarettes. Any distributor having cigarettes
5 in his or her possession on September 1, 2010 to which tax
6 stamps have been affixed is required to pay the additional tax
7 that begins on September 1, 2010 imposed by an amendatory Act
8 of the 96th General Assembly to the extent the calendar year
9 2010 average monthly volume of cigarette stamps in the
10 distributor's possession exceeds the average monthly volume of
11 cigarette stamps purchased by the distributor in calendar year
12 2009. This payment, less the discount provided in subsection
13 (b), is due when the distributor first makes a purchase of
14 cigarette stamps on or after September 1, 2010 or on the first
15 due date of a return under this Act occurring on or after
16 September 1, 2010, whichever occurs first.

17 Any retailer having cigarettes in his or her possession on
18 September 1, 2011 to which tax stamps have been affixed is not
19 required to pay the additional tax that begins of September 1,
20 2011 imposed by an amendatory Act of the 96th General Assembly
21 on those stamped cigarettes. Any distributor having cigarettes
22 in his or her possession on September 1, 2011 to which tax
23 stamps have been affixed is required to pay the additional tax
24 that begins on September 1, 2011 imposed by an amendatory Act
25 of the 96th General Assembly to the extent the calendar year
26 2011 average monthly volume of cigarette stamps in the

1 distributor's possession exceeds the average monthly volume of
2 cigarette stamps purchased by the distributor in calendar year
3 2010. This payment, less the discount provided in subsection
4 (b), is due when the distributor first makes a purchase of
5 cigarette stamps on or after September 1, 2011 or on the first
6 due date of a return under this Act occurring on or after
7 September 1, 2011, whichever occurs first. Any distributor
8 ~~having cigarettes to which stamps have been affixed in his or~~
9 ~~her possession for sale on or after September 1, 2009 is~~
10 ~~required to pay the additional tax imposed by this amendatory~~
11 ~~Act of the 96th General Assembly on those stamped cigarettes.~~
12 ~~This payment, less the discount provided in subsection (b), is~~
13 ~~due when the distributor first makes a purchase of cigarette~~
14 ~~tax stamps on or after September 1, 2009 or on the first due~~
15 ~~date of a return under this Act occurring on or after September~~
16 ~~1, 2009, whichever occurs first. Any distributor having~~
17 ~~cigarettes to which stamps have been affixed in his or her~~
18 ~~possession for sale on or after September 1, 2010 is required~~
19 ~~to pay the additional tax imposed by this amendatory Act of the~~
20 ~~96th General Assembly on those stamped cigarettes. This~~
21 ~~payment, less the discount provided in subsection (b), is due~~
22 ~~when the distributor first makes a purchase of cigarette tax~~
23 ~~stamps on or after September 1, 2010 or on the first due date~~
24 ~~of a return under this Act occurring on or after September 1,~~
25 ~~2010, whichever occurs first.~~

26 The amount of the Cigarette Tax imposed by this Act shall

1 be separately stated, apart from the price of the goods, by
2 both distributors and retailers, in all advertisements, bills
3 and sales invoices.

4 (b) The distributor shall be required to collect the taxes
5 provided under paragraph (a) hereof, and, to cover the costs of
6 such collection, shall be allowed a discount during any year
7 commencing July 1st and ending the following June 30th in
8 accordance with the schedule set out hereinbelow, which
9 discount shall be allowed at the time of purchase of the stamps
10 when purchase is required by this Act, or at the time when the
11 tax is remitted to the Department without the purchase of
12 stamps from the Department when that method of paying the tax
13 is required or authorized by this Act. Prior to December 1,
14 1985, a discount equal to $1\frac{2}{3}\%$ of the amount of the tax up to
15 and including the first \$700,000 paid hereunder by such
16 distributor to the Department during any such year; $1\frac{1}{3}\%$ of
17 the next \$700,000 of tax or any part thereof, paid hereunder by
18 such distributor to the Department during any such year; 1% of
19 the next \$700,000 of tax, or any part thereof, paid hereunder
20 by such distributor to the Department during any such year, and
21 $\frac{2}{3}$ of 1% of the amount of any additional tax paid hereunder by
22 such distributor to the Department during any such year shall
23 apply. On and after December 1, 1985, a discount equal to 1.75%
24 of the amount of the tax payable under this Act up to and
25 including the first \$3,000,000 paid hereunder by such
26 distributor to the Department during any such year and 1.5% of

1 the amount of any additional tax paid hereunder by such
2 distributor to the Department during any such year shall apply.

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

7 (c) The taxes herein imposed are in addition to all other
8 occupation or privilege taxes imposed by the State of Illinois,
9 or by any political subdivision thereof, or by any municipal
10 corporation.

11 (Source: P.A. 93-839, eff. 7-30-04; 94-91, eff. 7-1-05; 94-839,
12 eff. 6-6-06; 09600SB0044eng.)

13 Section 10. If and only if Senate Bill 44 of the 96th
14 General Assembly becomes law in the form it passed the Senate,
15 the Cigarette Use Tax Act is amended by changing Sections 1, 2,
16 and 12 as follows:

17 (35 ILCS 135/1) (from Ch. 120, par. 453.31)

18 Sec. 1. For the purpose of this Act, unless otherwise
19 required by the context:

20 "Use" means the exercise by any person of any right or
21 power over cigarettes incident to the ownership or possession
22 thereof, other than the making of a sale thereof in the course
23 of engaging in a business of selling cigarettes and shall
24 include the keeping or retention of cigarettes for use. For the

1 purpose of this Act, "use" does not include the use of
2 cigarettes by a not-for-profit research institution for the
3 purpose of conducting tests concerning the health effects of
4 tobacco products, provided the cigarettes are not offered for
5 resale.

6 "Cigarette" means any roll for smoking made wholly or in
7 part of tobacco irrespective of size or shape and whether or
8 not such tobacco is flavored, adulterated or mixed with any
9 other ingredient, and the wrapper or cover of which is made of
10 paper ~~or any other substance or material except whole tobacco~~
11 ~~leaf.~~

12 "Cigarette" when used in this Act, shall also be construed
13 to mean: any roll for smoking made wholly or in part of tobacco
14 labeled as anything other than a cigarette or not bearing a
15 label, if it meets 2 or more of the following criteria:

16 (a) the product is sold in packs similar to cigarettes;

17 (b) the product is available for sale in cartons of 10
18 packs;

19 (c) the product is sold in soft packs, hard packs, flip-top
20 boxes, clam shells, or other cigarette-type boxes;

21 (d) the product is of a length and diameter found in
22 commercially-manufactured cigarettes;

23 (e) the product has a cellulose acetate or other integrated
24 filter;

25 (f) the product weighs less than 3 pounds per thousand
26 sticks;

1 (g) the product is marketed or advertised to consumers as a
2 cigarette or cigarette substitute; or

3 (h) there is other evidence that the product fits within
4 the definition of cigarette.

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

11 "Department" means the Department of Revenue.

12 "Sale" means any transfer, exchange or barter in any manner
13 or by any means whatsoever for a consideration, and includes
14 and means all sales made by any person.

15 "Original Package" means the individual packet, box or
16 other container whatsoever used to contain and to convey
17 cigarettes to the consumer.

18 "Distributor" means any and each of the following:

19 a. Any person engaged in the business of selling
20 cigarettes in this State who brings or causes to be brought
21 into this State from without this State any original
22 packages of cigarettes, on which original packages there is
23 no authorized evidence underneath a sealed transparent
24 wrapper showing that the tax liability imposed by this Act
25 has been paid or assumed by the out-of-State seller of such
26 cigarettes, for sale in the course of such business.

1 b. Any person who makes, manufactures or fabricates
2 cigarettes in this State for sale, except a person who
3 makes, manufactures or fabricates cigarettes for sale to
4 residents incarcerated in penal institutions or resident
5 patients or a State-operated mental health facility.

6 c. Any person who makes, manufactures or fabricates
7 cigarettes outside this State, which cigarettes are placed
8 in original packages contained in sealed transparent
9 wrappers, for delivery or shipment into this State, and who
10 elects to qualify and is accepted by the Department as a
11 distributor under Section 7 of this Act.

12 "Distributor" does not include any person who transfers
13 cigarettes to a not-for-profit research institution that
14 conducts tests concerning the health effects of tobacco
15 products and who does not offer the cigarettes for resale.

16 "Distributor maintaining a place of business in this
17 State", or any like term, means any distributor having or
18 maintaining within this State, directly or by a subsidiary, an
19 office, distribution house, sales house, warehouse or other
20 place of business, or any agent operating within this State
21 under the authority of the distributor or its subsidiary,
22 irrespective of whether such place of business or agent is
23 located here permanently or temporarily, or whether such
24 distributor or subsidiary is licensed to transact business
25 within this State.

26 "Business" means any trade, occupation, activity or

1 enterprise engaged in or conducted in this State for the
2 purpose of selling cigarettes.

3 "Prior Continuous Compliance Taxpayer" means any person
4 who is licensed under this Act and who, having been a licensee
5 for a continuous period of 5 years, is determined by the
6 Department not to have been either delinquent or deficient in
7 the payment of tax liability during that period or otherwise in
8 violation of this Act. Also, any taxpayer who has, as verified
9 by the Department, continuously complied with the condition of
10 his bond or other security under provisions of this Act of a
11 period of 5 consecutive years shall be considered to be a
12 "prior continuous compliance taxpayer". In calculating the
13 consecutive period of time described herein for qualification
14 as a "prior continuous compliance taxpayer", a consecutive
15 period of time of qualifying compliance immediately prior to
16 the effective date of this amendatory Act of 1987 shall be
17 credited to any licensee who became licensed on or before the
18 effective date of this amendatory Act of 1987.

19 (Source: P.A. 95-462, eff. 8-27-07; 09600SB0044eng.)

20 (35 ILCS 135/2) (from Ch. 120, par. 453.32)

21 Sec. 2. A tax is imposed upon the privilege of using
22 cigarettes in this State, at the rate of 6 mills per cigarette
23 so used. On and after December 1, 1985, in addition to any
24 other tax imposed by this Act, a tax is imposed upon the
25 privilege of using cigarettes in this State at a rate of 4

1 mills per cigarette so used. On and after the effective date of
2 this amendatory Act of 1989, in addition to any other tax
3 imposed by this Act, a tax is imposed upon the privilege of
4 using cigarettes in this State at the rate of 5 mills per
5 cigarette so used. On and after the effective date of this
6 amendatory Act of 1993, in addition to any other tax imposed by
7 this Act, a tax is imposed upon the privilege of using
8 cigarettes in this State at a rate of 7 mills per cigarette so
9 used. On and after December 15, 1997, in addition to any other
10 tax imposed by this Act, a tax is imposed upon the privilege of
11 using cigarettes in this State at a rate of 7 mills per
12 cigarette so used. On and after July 1, 2002, in addition to
13 any other tax imposed by this Act, a tax is imposed upon the
14 privilege of using cigarettes in this State at a rate of 20.0
15 mills per cigarette so used. Beginning on September 1, 2009, in
16 addition to any other tax imposed by this Act, a tax is imposed
17 upon the privilege of using cigarettes in this State at a rate
18 of 25 mills per cigarette so used. Beginning on September 1,
19 2010, in addition to any other tax imposed by this Act, a tax
20 is imposed upon the privilege of using ~~any person engaged in~~
21 ~~business as a retailer of~~ cigarettes in this State at the rate
22 of 12.5 ~~25~~ mills per cigarette so used ~~sold or otherwise~~
23 ~~disposed of in the course of such business in this State.~~
24 Beginning on September 1, 2011, in addition to any other tax
25 imposed by this Act, a tax is imposed upon the privilege of
26 using cigarettes in this State at the rate of 12.5 mills per

1 cigarette so used. The taxes herein imposed shall be in
2 addition to all other occupation or privilege taxes imposed by
3 the State of Illinois or by any political subdivision thereof
4 or by any municipal corporation.

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

14 When the word "tax" is used in this Act, it shall include
15 any tax or tax rate imposed by this Act and shall mean the
16 singular of "tax" or the plural "taxes" as the context may
17 require.

18 Any distributor having cigarettes to which stamps have been
19 affixed in his possession for sale on the effective date of
20 this amendatory Act of 1989 shall not be required to pay the
21 additional tax imposed by this amendatory Act of 1989 on such
22 stamped cigarettes. Any distributor having cigarettes to which
23 stamps have been affixed in his or her possession for sale at
24 12:01 a.m. on the effective date of this amendatory Act of
25 1993, is required to pay the additional tax imposed by this
26 amendatory Act of 1993 on such stamped cigarettes. This payment

1 shall 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 Act
5 of 1993, whichever occurs first. Once a distributor tenders
6 payment of the additional tax to the Department, the
7 distributor may purchase stamps from the Department. Any
8 distributor having cigarettes to which stamps have been affixed
9 in his possession for sale on December 15, 1997 shall not be
10 required to pay the additional tax imposed by this amendatory
11 Act of 1997 on such stamped cigarettes.

12 Any distributor having cigarettes to which stamps have been
13 affixed in his or her possession for sale on July 1, 2002 shall
14 not be required to pay the additional tax imposed by this
15 amendatory Act of the 92nd General Assembly on those stamped
16 cigarettes. Any retailer having cigarettes in his or her
17 possession on September 1, 2009 to which tax stamps have been
18 affixed is not required to pay the additional tax that begins
19 of September 1, 2009 imposed by an amendatory Act of the 96th
20 General Assembly on those stamped cigarettes. Any distributor
21 having cigarettes in his or her possession on September 1, 2009
22 to which tax stamps have been affixed is required to pay the
23 additional tax that begins on September 1, 2009 imposed by an
24 amendatory Act of the 96th General Assembly to the extent the
25 calendar year 2009 average monthly volume of cigarette stamps
26 in the distributor's possession exceeds the average monthly

1 volume of cigarette stamps purchased by the distributor in
2 calendar year 2008. This payment, less the discount provided in
3 Section 3, is due when the distributor first makes a purchase
4 of cigarette stamps on or after September 1, 2009 or on the
5 first due date of a return under this Act occurring on or after
6 September 1, 2009, whichever occurs first.

7 Any retailer having cigarettes in his or her possession on
8 September 1, 2010 to which tax stamps have been affixed is not
9 required to pay the additional tax that begins on September 1,
10 2010 imposed by an amendatory Act of the 96th General Assembly
11 on those stamped cigarettes. Any distributor having cigarettes
12 in his or her possession on September 1, 2010 to which tax
13 stamps have been affixed is required to pay the additional tax
14 that begins on September 1, 2010 imposed by an amendatory Act
15 of the 96th General Assembly to the extent the calendar year
16 2010 average monthly volume of cigarette stamps in the
17 distributor's possession exceeds the average monthly volume of
18 cigarette stamps purchased by the distributor in calendar year
19 2009. This payment, less the discount provided in Section 3, is
20 due when the distributor first makes a purchase of cigarette
21 stamps on or after September 1, 2010 or on the first due date
22 of a return under this Act occurring on or after September 1,
23 2010, whichever occurs first.

24 Any retailer having cigarettes in his or her possession on
25 September 1, 2011 to which tax stamps have been affixed is not
26 required to pay the additional tax that begins of September 1,

1 2011 imposed by an amendatory Act of the 96th General Assembly
2 on those stamped cigarettes. Any distributor having cigarettes
3 in his or her possession on September 1, 2011 to which tax
4 stamps have been affixed is required to pay the additional tax
5 that begins on September 1, 2011 imposed by an amendatory Act
6 of the 96th General Assembly to the extent the calendar year
7 2011 average monthly volume of cigarette stamps in the
8 distributor's possession exceeds the average monthly volume of
9 cigarette stamps purchased by the distributor in calendar year
10 2010. This payment, less the discount provided in Section 3, is
11 due when the distributor first makes a purchase of cigarette
12 stamps on or after September 1, 2011 or on the first due date
13 of a return under this Act occurring on or after September 1,
14 2011, whichever occurs first. Any distributor having
15 ~~eigarettes to which stamps have been affixed in his or her~~
16 ~~possession for sale on or after September 1, 2009 is required~~
17 ~~to pay the additional tax imposed by this amendatory Act of the~~
18 ~~96th General Assembly on those stamped cigarettes. This~~
19 ~~payment, less the discount provided in Section 3 of this Act,~~
20 ~~is due when the distributor first makes a purchase of cigarette~~
21 ~~tax stamps on or after September 1, 2009 or on the first due~~
22 ~~date of a return under this Act occurring on or after September~~
23 ~~1, 2009, whichever occurs first. Any distributor having~~
24 ~~eigarettes to which stamps have been affixed in his or her~~
25 ~~possession for sale on or after September 1, 2010 is required~~
26 ~~to pay the additional tax imposed by this amendatory Act of the~~

~~96th General Assembly on those stamped cigarettes. This payment, less the discount provided in subsection (b), is due when the distributor first makes a purchase of cigarette tax stamps on or after September 1, 2010 or on the first due date of a return under this Act occurring on or after September 1, 2010, whichever occurs first.~~

(Source: P.A. 92-536, eff. 6-6-02; 09600SB0044eng.)

(35 ILCS 135/12) (from Ch. 120, par. 453.42)

Sec. 12. Declaration of possession of cigarettes on which tax not paid.

(a) When cigarettes are acquired for use in this State by a person (including a distributor as well as any other person), who did not pay the tax herein imposed to a distributor, the person, within 30 days after acquiring the cigarettes, shall file with the Department a return declaring the possession of the cigarettes and shall transmit with the return to the Department the tax imposed by this Act.

(b) On receipt of the return and payment of the tax as required by paragraph (a), the Department may furnish the person with a suitable tax stamp to be affixed to the package of cigarettes upon which the tax has been paid if the Department determines that the cigarettes still exist.

(c) The return referred to in paragraph (a) shall contain the name and address of the person possessing the cigarettes involved, the location of the cigarettes and the quantity,

1 brand name, place, and date of the acquisition of the
2 cigarettes.

3 (d) The provisions of this Section ~~subsection~~ are not
4 subject to the Uniform Penalty and Interest Act.

5 (Source: P.A. 92-322, eff. 1-1-02; 09600SB0044eng.)

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