



Sen. John J. Cullerton

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09700SB0021sam001

LRB097 06653 HLH 53122 a

1 AMENDMENT TO SENATE BILL 21

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 21 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 as  
10 a retailer of cigarettes in this State at the rate of 5 1/2  
11 mills per cigarette sold, or otherwise disposed of in the  
12 course of such business in this State. In addition to any other  
13 tax imposed by this Act, a tax is imposed upon any person  
14 engaged in business as a retailer of cigarettes in this State  
15 at a rate of 1/2 mill per cigarette sold or otherwise disposed  
16 of in the course of such business in this State on and after

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

1 Act and the Cigarette Use Tax Act from the additional taxes  
2 imposed by this amendatory Act of 1997, shall be paid each  
3 month into the Common School Fund. On and after July 1, 2002,  
4 in addition to any other tax imposed by this Act, a tax is  
5 imposed upon any person engaged in business as a retailer of  
6 cigarettes at the rate of 20.0 mills per cigarette sold or  
7 otherwise disposed of in the course of such business in this  
8 State. Beginning on July 1, 2011, in addition to any other tax  
9 imposed by this Act, a tax is imposed upon any person engaged  
10 in business as a retailer of cigarettes at the rate of 25 mills  
11 per cigarette sold or otherwise disposed of in the course of  
12 such business in this State. Beginning on July 1, 2012, in  
13 addition to any other tax imposed by this Act, a tax is imposed  
14 upon any person engaged in business as a retailer of cigarettes  
15 at the rate of 25 mills per cigarette sold or otherwise  
16 disposed of in the course of such business in this State. Of  
17 the moneys received by the Department of Revenue under this Act  
18 and the Cigarette Use Tax Act from the additional taxes imposed  
19 by this amendatory Act of the 97th General Assembly the balance  
20 shall be paid each month into the Capital Projects Fund, a  
21 special fund in the State treasury. The payment of such taxes  
22 shall be evidenced by a stamp affixed to each original package  
23 of cigarettes, or an authorized substitute for such stamp  
24 imprinted on each original package of such cigarettes  
25 underneath the sealed transparent outside wrapper of such  
26 original package, as hereinafter provided. However, such taxes

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

5 Beginning on the effective date of this amendatory Act of  
6 the 92nd General Assembly and through June 30, 2006, all of the  
7 moneys received by the Department of Revenue pursuant to this  
8 Act and the Cigarette Use Tax Act, other than the moneys that  
9 are dedicated to the Common School Fund, shall be distributed  
10 each month as follows: first, there shall be paid into the  
11 General Revenue Fund an amount which, when added to the amount  
12 paid into the Common School Fund for that month, equals  
13 \$33,300,000, except that in the month of August of 2004, this  
14 amount shall equal \$83,300,000; then, from the moneys  
15 remaining, if any amounts required to be paid into the General  
16 Revenue Fund in previous months remain unpaid, those amounts  
17 shall be paid into the General Revenue Fund; then, beginning on  
18 April 1, 2003, from the moneys remaining, \$5,000,000 per month  
19 shall be paid into the School Infrastructure Fund; then, if any  
20 amounts required to be paid into the School Infrastructure Fund  
21 in previous months remain unpaid, those amounts shall be paid  
22 into the School Infrastructure Fund; then the moneys remaining,  
23 if any, shall be paid into the Long-Term Care Provider Fund. To  
24 the extent that more than \$25,000,000 has been paid into the  
25 General Revenue Fund and Common School Fund per month for the  
26 period of July 1, 1993 through the effective date of this

1 amendatory Act of 1994 from combined receipts of the Cigarette  
2 Tax Act and the Cigarette Use Tax Act, notwithstanding the  
3 distribution provided in this Section, the Department of  
4 Revenue is hereby directed to adjust the distribution provided  
5 in this Section to increase the next monthly payments to the  
6 Long Term Care Provider Fund by the amount paid to the General  
7 Revenue Fund and Common School Fund in excess of \$25,000,000  
8 per month and to decrease the next monthly payments to the  
9 General Revenue Fund and Common School Fund by that same excess  
10 amount.

11 Beginning on July 1, 2006, all of the moneys received by  
12 the Department of Revenue pursuant to this Act and the  
13 Cigarette Use Tax Act, other than the moneys that are dedicated  
14 to the Common School Fund and, beginning on the effective date  
15 of this amendatory Act of the 97th General Assembly, other than  
16 the moneys from the additional taxes imposed by this amendatory  
17 Act of the 97th General Assembly that must be paid each month  
18 into the Capital Projects Fund, shall be distributed each month  
19 as follows: first, there shall be paid into the General Revenue  
20 Fund an amount that, when added to the amount paid into the  
21 Common School Fund for that month, equals \$29,200,000; then,  
22 from the moneys remaining, if any amounts required to be paid  
23 into the General Revenue Fund in previous months remain unpaid,  
24 those amounts shall be paid into the General Revenue Fund; then  
25 from the moneys remaining, \$5,000,000 per month shall be paid  
26 into the School Infrastructure Fund; then, if any amounts

1 required to be paid into the School Infrastructure Fund in  
2 previous months remain unpaid, those amounts shall be paid into  
3 the School Infrastructure Fund; then the moneys remaining, if  
4 any, shall be paid into the Long-Term Care Provider Fund.

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 distributor.

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

21 Each distributor shall collect the tax from the retailer at  
22 or before the time of the sale, shall affix the stamps as  
23 hereinafter required, and shall remit the tax collected from  
24 retailers to the Department, as hereinafter provided. Any  
25 distributor who fails to properly collect and pay the tax  
26 imposed by this Act shall be liable for the tax. Any

1 distributor having cigarettes to which stamps have been affixed  
2 in his possession for sale on the effective date of this  
3 amendatory Act of 1989 shall not be required to pay the  
4 additional tax imposed by this amendatory Act of 1989 on such  
5 stamped cigarettes. Any distributor having cigarettes to which  
6 stamps have been affixed in his or her possession for sale at  
7 12:01 a.m. on the effective date of this amendatory Act of  
8 1993, is required to pay the additional tax imposed by this  
9 amendatory Act of 1993 on such stamped cigarettes. This  
10 payment, less the discount provided in subsection (b), shall be  
11 due when the distributor first makes a purchase of cigarette  
12 tax stamps after the effective date of this amendatory Act of  
13 1993, or on the first due date of a return under this Act after  
14 the effective date of this amendatory Act of 1993, whichever  
15 occurs first. Any distributor having cigarettes to which stamps  
16 have been affixed in his possession for sale on December 15,  
17 1997 shall not be required to pay the additional tax imposed by  
18 this amendatory Act of 1997 on such stamped cigarettes.

19 Any distributor having cigarettes to which stamps have been  
20 affixed in his or her possession for sale on July 1, 2002 shall  
21 not be required to pay the additional tax imposed by this  
22 amendatory Act of the 92nd General Assembly on those stamped  
23 cigarettes. Any retailer having cigarettes in his or her  
24 possession on July 1, 2011 to which tax stamps have been  
25 affixed is not required to pay the additional tax that begins  
26 on July 1, 2011 imposed by this amendatory Act of the 97th

1 General Assembly on those stamped cigarettes. Any distributor  
2 having cigarettes in his or her possession on July 1, 2011 to  
3 which tax stamps have been affixed is required to pay the  
4 additional tax that begins on July 1, 2011 imposed by this  
5 amendatory Act of the 97th General Assembly to the extent the  
6 calendar year 2011 average monthly volume of cigarette stamps  
7 in the distributor's possession exceeds the average monthly  
8 volume of cigarette stamps purchased by the distributor in  
9 calendar year 2010. This payment, less the discount provided in  
10 subsection (b), is due when the distributor first makes a  
11 purchase of cigarette stamps on or after July 1, 2011 or on the  
12 first due date of a return under this Act occurring on or after  
13 July 1, 2011, whichever occurs first. Any retailer having  
14 cigarettes in his or her possession on July 1, 2012 to which  
15 tax stamps have been affixed is not required to pay the  
16 additional tax that begins on July 1, 2012 imposed by this  
17 amendatory Act of the 97th General Assembly on those stamped  
18 cigarettes. Any distributor having cigarettes in his or her  
19 possession on July 1, 2012 to which tax stamps have been  
20 affixed is required to pay the additional tax that begins on  
21 July 1, 2012 imposed by this amendatory Act of the 97th General  
22 Assembly to the extent the calendar year 2012 average monthly  
23 volume of cigarette stamps in the distributor's possession  
24 exceeds the average monthly volume of cigarette stamps  
25 purchased by the distributor in calendar year 2011. This  
26 payment, less the discount provided in subsection (b), is due



1 when the distributor first makes a purchase of cigarette stamps  
2 on or after July 1, 2012 or on the first due date of a return  
3 under this Act occurring on or after July 1, 2012, whichever  
4 occurs first.

5         Distributors making sales of cigarettes to secondary  
6 distributors shall add the amount of the tax to the price of  
7 the cigarettes sold by the distributors. Secondary  
8 distributors making sales of cigarettes to retailers shall  
9 include the amount of the tax in the price of the cigarettes  
10 sold to retailers. The amount of tax shall not be less than the  
11 amount of taxes imposed by the State and all local  
12 jurisdictions. The amount of local taxes shall be calculated  
13 based on the location of the retailer's place of business shown  
14 on the retailer's certificate of registration or  
15 sub-registration issued to the retailer pursuant to Section 2a  
16 of the Retailers' Occupation Tax Act. The original packages of  
17 cigarettes sold to the retailer shall bear all the required  
18 stamps, or other indicia, for the taxes included in the price  
19 of cigarettes.

20         The amount of the Cigarette Tax imposed by this Act shall  
21 be separately stated, apart from the price of the goods, by  
22 distributors, secondary distributors, and retailers, in all  
23 bills and sales invoices.

24         (b) The distributor shall be required to collect the taxes  
25 provided under paragraph (a) hereof, and, to cover the costs of  
26 such collection, shall be allowed a discount during any year

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

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

1           (c) The taxes herein imposed are in addition to all other  
2 occupation or privilege taxes imposed by the State of Illinois,  
3 or by any political subdivision thereof, or by any municipal  
4 corporation.

5           (Source: P.A. 96-1027, eff. 7-12-10.)

6           (35 ILCS 130/3) (from Ch. 120, par. 453.3)

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

19           No stamp or imprint may be affixed to, or made upon, any  
20 package of cigarettes unless that package complies with all  
21 requirements of the federal Cigarette Labeling and Advertising  
22 Act, 15 U.S.C. 1331 and following, for the placement of labels,  
23 warnings, or any other information upon a package of cigarettes  
24 that is sold within the United States. Under the authority of  
25 Section 6, the Department shall revoke the license of any

1 distributor that is determined to have violated this paragraph.  
2 A person may not affix a stamp on a package of cigarettes,  
3 cigarette papers, wrappers, or tubes if that individual package  
4 has been marked for export outside the United States with a  
5 label or notice in compliance with Section 290.185 of Title 27  
6 of the Code of Federal Regulations. It is not a defense to a  
7 proceeding for violation of this paragraph that the label or  
8 notice has been removed, mutilated, obliterated, or altered in  
9 any manner.

10 Only distributors licensed under this Act and  
11 transporters, as defined in Section 9c of this Act, may possess  
12 unstamped original packages of cigarettes. Prior to shipment to  
13 a secondary distributor or an Illinois retailer, a stamp shall  
14 be applied to each original package of cigarettes sold to the  
15 secondary distributor or retailer. A distributor may apply tax  
16 stamps only to original packages of cigarettes purchased or  
17 obtained directly from an in-state maker, manufacturer, or  
18 fabricator licensed as a distributor under Section 4 of this  
19 Act or an out-of-state maker, manufacturer, or fabricator  
20 holding a permit under Section 4b of this Act. A licensed  
21 distributor may ship or otherwise cause to be delivered  
22 unstamped original packages of cigarettes in, into, or from  
23 this State. A licensed distributor may transport unstamped  
24 original packages of cigarettes to a facility, wherever  
25 located, owned or controlled by such distributor; however, a  
26 distributor may not transport unstamped original packages of

1 cigarettes to a facility where retail sales of cigarettes take  
2 place or to a facility where a secondary distributor makes  
3 sales for resale. Any licensed distributor that ships or  
4 otherwise causes to be delivered unstamped original packages of  
5 cigarettes into, within, or from this State shall ensure that  
6 the invoice or equivalent documentation and the bill of lading  
7 or freight bill for the shipment identifies the true name and  
8 address of the consignor or seller, the true name and address  
9 of the consignee or purchaser, and the quantity by brand style  
10 of the cigarettes so transported, provided that this Section  
11 shall not be construed as to impose any requirement or  
12 liability upon any common or contract carrier.

13 The Department, or any person authorized by the Department,  
14 shall sell such stamps only to persons holding valid licenses  
15 as distributors under this Act. On and after July 1, 2003,  
16 payment for such stamps must be made by means of electronic  
17 funds transfer. The Department may refuse to sell stamps to any  
18 person who does not comply with the provisions of this Act.  
19 Beginning on the effective date of this amendatory Act of the  
20 92nd General Assembly and through June 30, 2002, persons  
21 holding valid licenses as distributors may purchase cigarette  
22 tax stamps up to an amount equal to 115% of the distributor's  
23 average monthly cigarette tax stamp purchases over the 12  
24 calendar months prior to the effective date of this amendatory  
25 Act of the 92nd General Assembly.

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

23 On and after December 1, 1985 and until July 1, 2003, the  
24 Department shall allow a distributor 30 days in which to make  
25 final payment of the amount to be paid for such stamps, by  
26 allowing the distributor to make payment for the stamps at the

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

26 Beginning on the effective date of this amendatory Act of

1 the 97th General Assembly, the Department shall allow a  
2 distributor 10 days in which to make final payment of the  
3 amount to be paid for such stamps, by allowing the distributor  
4 to make payment for the stamps at the time of purchasing them  
5 with a draft, which shall be payable by means of electronic  
6 funds transfer and in such form as the Department prescribes,  
7 and which shall be payable within 10 days thereafter, provided  
8 that such distributor has filed with the Department, and has  
9 received the Department's approval of, a bond, which is in  
10 addition to the bond required under Section 4 of this Act,  
11 payable to the Department in an amount equal to 100% of that  
12 distributor's average monthly tax liability to the Department  
13 under this Act during the preceding calendar year or \$750,000,  
14 whichever is less. The bond shall be joint and several and  
15 shall be in the form of a surety company bond in such form as  
16 the Department prescribes, or it may be in the form of a bank  
17 certificate of deposit or bank letter of credit. The bond shall  
18 be conditioned upon the distributor's payment of the amount of  
19 any 10-day draft which the Department accepts from that  
20 distributor for the delivery of stamps to that distributor  
21 under this Act. The distributor's failure to pay any such  
22 draft, when due, shall also make such distributor automatically  
23 liable to the Department for a penalty equal to 25% of the  
24 amount of such draft.

25 ~~Every prior continuous compliance taxpayer shall be exempt~~  
26 ~~from all requirements under this Section concerning the~~



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

25 Any person aggrieved by any decision of the Department  
26 under this Section may, within the time allowed by law, protest

1 and request a hearing, whereupon the Department shall give  
2 notice and shall hold a hearing in conformity with the  
3 provisions of this Act and then issue its final administrative  
4 decision in the matter to such person. In the absence of such a  
5 protest filed within the time allowed by law, the Department's  
6 decision shall become final without any further determination  
7 being made or notice given.

8 The Department shall discharge any surety and shall release  
9 and return any bond or security deposited, assigned, pledged,  
10 or otherwise provided to it by a taxpayer under this Section  
11 within 30 days after such ~~:(1) Such taxpayer becomes a prior~~  
12 ~~continuous compliance taxpayer; or (2) Such~~ taxpayer has ceased  
13 to collect receipts on which he is required to remit tax to the  
14 Department, has filed a final tax return, and has paid to the  
15 Department an amount sufficient to discharge his remaining tax  
16 liability as determined by the Department under this Act. The  
17 Department shall make a final determination of the taxpayer's  
18 outstanding tax liability as expeditiously as possible after  
19 his final tax return has been filed. If the Department cannot  
20 make such final determination within 45 days after receiving  
21 the final tax return, within such period it shall so notify the  
22 taxpayer, stating its reasons therefor.

23 The Department may authorize distributors to affix revenue  
24 tax stamps by imprinting tax meter stamps upon original  
25 packages of cigarettes. The Department shall adopt rules and  
26 regulations relating to the imprinting of such tax meter stamps

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

11 Illinois cigarette manufacturers who place their  
12 cigarettes in original packages which are contained inside a  
13 sealed transparent wrapper, and similar out-of-State cigarette  
14 manufacturers who elect to qualify and are accepted by the  
15 Department as distributors under Section 4b(a) of this Act,  
16 shall pay the taxes imposed by this Act by remitting the amount  
17 thereof to the Department by the 5th day of each month covering  
18 cigarettes shipped or otherwise delivered in Illinois to  
19 purchasers during the preceding calendar month. Such  
20 manufacturers of cigarettes in original packages which are  
21 contained inside a sealed transparent wrapper, before  
22 delivering such cigarettes or causing such cigarettes to be  
23 delivered in this State to purchasers, shall evidence their  
24 obligation to remit the taxes due with respect to such  
25 cigarettes by imprinting language to be prescribed by the  
26 Department on each original package of such cigarettes

1     underneath the sealed transparent outside wrapper of such  
2     original package, in such place thereon and in such manner as  
3     the Department may designate. Such imprinted language shall  
4     acknowledge the manufacturer's payment of or liability for the  
5     tax imposed by this Act with respect to the distribution of  
6     such cigarettes.

7             A distributor shall not affix, or cause to be affixed, any  
8     stamp or imprint to a package of cigarettes, as provided for in  
9     this Section, if the tobacco product manufacturer, as defined  
10    in Section 10 of the Tobacco Product Manufacturers' Escrow Act,  
11    that made or sold the cigarettes has failed to become a  
12    participating manufacturer, as defined in subdivision (a)(1)  
13    of Section 15 of the Tobacco Product Manufacturers' Escrow Act,  
14    or has failed to create a qualified escrow fund for any  
15    cigarettes manufactured by the tobacco product manufacturer  
16    and sold in this State or otherwise failed to bring itself into  
17    compliance with subdivision (a)(2) of Section 15 of the Tobacco  
18    Product Manufacturers' Escrow Act.

19    (Source: P.A. 95-1053, eff. 1-1-10; 96-782, eff. 1-1-10;  
20    96-1027, eff. 7-12-10.)

21             Section 10. The Cigarette Use Tax Act is amended by  
22    changing Sections 2, 3, and 12 as follows:

23             (35 ILCS 135/2) (from Ch. 120, par. 453.32)

24             Sec. 2. A tax is imposed upon the privilege of using

1 cigarettes in this State, at the rate of 6 mills per cigarette  
2 so used. On and after December 1, 1985, in addition to any  
3 other tax imposed by this Act, a tax is imposed upon the  
4 privilege of using cigarettes in this State at a rate of 4  
5 mills per cigarette so used. 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 the privilege of  
8 using cigarettes in this State at the rate of 5 mills per  
9 cigarette so used. On and after the effective date of this  
10 amendatory Act of 1993, in addition to any other tax imposed by  
11 this Act, a tax is imposed upon the privilege of using  
12 cigarettes in this State at a rate of 7 mills per cigarette so  
13 used. On and after December 15, 1997, in addition to any other  
14 tax imposed by this Act, a tax is imposed upon the privilege of  
15 using cigarettes in this State at a rate of 7 mills per  
16 cigarette so used. On and after July 1, 2002, in addition to  
17 any other tax imposed by this Act, a tax is imposed upon the  
18 privilege of using cigarettes in this State at a rate of 20.0  
19 mills per cigarette so used. Beginning on July 1, 2011, in  
20 addition to any other tax imposed by this Act, a tax is imposed  
21 upon the privilege of using cigarettes in this State at a rate  
22 of 25 mills per cigarette so used. Beginning on July 1, 2012,  
23 in addition to any other tax imposed by this Act, a tax is  
24 imposed upon the privilege of using cigarettes in this State at  
25 a rate of 25 mills per cigarette so used. The taxes herein  
26 imposed shall be in addition to all other occupation or

1 privilege taxes imposed by the State of Illinois or by any  
2 political subdivision thereof or by any municipal corporation.

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 to  
7 which they affixed such stamps after such tax had terminated  
8 and did not recover the tax or its equivalent from purchasers,  
9 shall be allowed by the Department to take credit for such  
10 absorbed tax against subsequent tax stamp purchases from the  
11 Department by such distributors.

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

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

1 amendatory Act of 1993, or on the first due date of a return  
2 under this Act after the effective date of this amendatory Act  
3 of 1993, whichever occurs first. Once a distributor tenders  
4 payment of the additional tax to the Department, the  
5 distributor may purchase stamps from the Department. Any  
6 distributor having cigarettes to which stamps have been affixed  
7 in his 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 been  
11 affixed in his or her possession for sale on July 1, 2002 shall  
12 not be required to pay the additional tax imposed by this  
13 amendatory Act of the 92nd General Assembly on those stamped  
14 cigarettes. Any retailer having cigarettes in his or her  
15 possession on July 1, 2011 to which tax stamps have been  
16 affixed is not required to pay the additional tax that begins  
17 on July 1, 2011 imposed by this amendatory Act of the 97th  
18 General Assembly on those stamped cigarettes. Any distributor  
19 having cigarettes in his or her possession on July 1, 2011 to  
20 which tax stamps have been affixed is required to pay the  
21 additional tax that begins on July 1, 2011 imposed by this  
22 amendatory Act of the 97th General Assembly to the extent the  
23 calendar year 2011 average monthly volume of cigarette stamps  
24 in the distributor's possession exceeds the average monthly  
25 volume of cigarette stamps purchased by the distributor in  
26 calendar year 2010. This payment, less the discount provided in

1 Section 3, is due when the distributor first makes a purchase  
2 of cigarette stamps on or after July 1, 2011 or on the first  
3 due date of a return under this Act occurring on or after July  
4 1, 2011, whichever occurs first. Any retailer having cigarettes  
5 in his or her possession on July 1, 2012 to which tax stamps  
6 have been affixed is not required to pay the additional tax  
7 that begins on July 1, 2012 imposed by this amendatory Act of  
8 the 97th General Assembly on those stamped cigarettes. Any  
9 distributor having cigarettes in his or her possession on July  
10 1, 2012 to which tax stamps have been affixed is required to  
11 pay the additional tax that begins on July 1, 2012 imposed by  
12 this amendatory Act of the 97th General Assembly to the extent  
13 the calendar year 2012 average monthly volume of cigarette  
14 stamps in the distributor's possession exceeds the average  
15 monthly volume of cigarette stamps purchased by the distributor  
16 in calendar year 2011. This payment, less the discount provided  
17 in Section 3, is due when the distributor first makes a  
18 purchase of cigarette stamps on or after July 1, 2012 or on the  
19 first due date of a return under this Act occurring on or after  
20 July 1, 2012, whichever occurs first.

21 (Source: P.A. 92-536, eff. 6-6-02.)

22 (35 ILCS 135/3) (from Ch. 120, par. 453.33)

23 Sec. 3. Stamp payment. The tax hereby imposed shall be  
24 collected by a distributor maintaining a place of business in  
25 this State or a distributor authorized by the Department



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

25 No stamp or imprint may be affixed to, or made upon, any  
26 package of cigarettes unless that package complies with all

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

15 Only distributors licensed under this Act and  
16 transporters, as defined in Section 9c of the Cigarette Tax  
17 Act, may possess unstamped original packages of cigarettes.  
18 Prior to shipment to an Illinois retailer or secondary  
19 distributor, a stamp shall be applied to each original package  
20 of cigarettes sold to the retailer or secondary distributor. A  
21 distributor may apply a tax stamp only to an original package  
22 of cigarettes purchased or obtained directly from an in-state  
23 maker, manufacturer, or fabricator licensed as a distributor  
24 under Section 4 of this Act or an out-of-state maker,  
25 manufacturer, or fabricator holding a permit under Section 7 of  
26 this Act. A licensed distributor may ship or otherwise cause to

1 be delivered unstamped original packages of cigarettes in,  
2 into, or from this State. A licensed distributor may transport  
3 unstamped original packages of cigarettes to a facility,  
4 wherever located, owned or controlled by such distributor;  
5 however, a distributor may not transport unstamped original  
6 packages of cigarettes to a facility where retail sales of  
7 cigarettes take place or to a facility where a secondary  
8 distributor makes sales for resale. Any licensed distributor  
9 that ships or otherwise causes to be delivered unstamped  
10 original packages of cigarettes into, within, or from this  
11 State shall ensure that the invoice or equivalent documentation  
12 and the bill of lading or freight bill for the shipment  
13 identifies the true name and address of the consignor or  
14 seller, the true name and address of the consignee or  
15 purchaser, and the quantity by brand style of the cigarettes so  
16 transported, provided that this Section shall not be construed  
17 as to impose any requirement or liability upon any common or  
18 contract carrier.

19 Distributors making sales of cigarettes to secondary  
20 distributors shall add the amount of the tax to the price of  
21 the cigarettes sold by the distributors. Secondary  
22 distributors making sales of cigarettes to retailers shall  
23 include the amount of the tax in the price of the cigarettes  
24 sold to retailers. The amount of tax shall not be less than the  
25 amount of taxes imposed by the State and all local  
26 jurisdictions. The amount of local taxes shall be calculated

1 based on the location of the retailer's place of business shown  
2 on the retailer's certificate of registration or  
3 sub-registration issued to the retailer pursuant to Section 2a  
4 of the Retailers' Occupation Tax Act. The original packages of  
5 cigarettes sold by the retailer shall bear all the required  
6 stamps, or other indicia, for the taxes included in the price  
7 of cigarettes.

8 Stamps, when required hereunder, shall be purchased from  
9 the Department, or any person authorized by the Department, by  
10 distributors. On and after July 1, 2003, payment for such  
11 stamps must be made by means of electronic funds transfer. The  
12 Department may refuse to sell stamps to any person who does not  
13 comply with the provisions of this Act. Beginning on June 6,  
14 2002 and through June 30, 2002, persons holding valid licenses  
15 as distributors may purchase cigarette tax stamps up to an  
16 amount equal to 115% of the distributor's average monthly  
17 cigarette tax stamp purchases over the 12 calendar months prior  
18 to June 6, 2002.

19 Prior to December 1, 1985, the Department shall allow a  
20 distributor 21 days in which to make final payment of the  
21 amount to be paid for such stamps, by allowing the distributor  
22 to make payment for the stamps at the time of purchasing them  
23 with a draft which shall be in such form as the Department  
24 prescribes, and which shall be payable within 21 days  
25 thereafter: Provided that such distributor has filed with the  
26 Department, and has received the Department's approval of, a

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

16 On and after December 1, 1985 and until July 1, 2003, the  
17 Department shall allow a distributor 30 days in which to make  
18 final payment of the amount to be paid for such stamps, by  
19 allowing the distributor to make payment for the stamps at the  
20 time of purchasing them with a draft which shall be in such  
21 form as the Department prescribes, and which shall be payable  
22 within 30 days thereafter, and beginning on January 1, 2003 and  
23 thereafter, the draft shall be payable by means of electronic  
24 funds transfer: Provided that such distributor has filed with  
25 the Department, and has received the Department's approval of,  
26 a bond, which is in addition to the bond required under Section

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

19 Beginning on the effective date of this amendatory Act of  
20 the 97th General Assembly, the Department shall allow a  
21 distributor 10 days in which to make final payment of the  
22 amount to be paid for such stamps, by allowing the distributor  
23 to make payment for the stamps at the time of purchasing them  
24 with a draft, which shall be payable by means of electronic  
25 funds transfer and in such form as the Department prescribes,  
26 and which shall be payable within 10 days thereafter, provided

1 that such distributor has filed with the Department, and has  
2 received the Department's approval of, a bond, which is in  
3 addition to the bond required under Section 4 of this Act,  
4 payable to the Department in an amount equal to 100% of that  
5 distributor's average monthly tax liability to the Department  
6 under this Act during the preceding calendar year or \$750,000,  
7 whichever is less. The bond shall be joint and several and  
8 shall be in the form of a surety company bond in such form as  
9 the Department prescribes, or it may be in the form of a bank  
10 certificate of deposit or bank letter of credit. The bond shall  
11 be conditioned upon the distributor's payment of the amount of  
12 any 10-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 automatically  
16 liable to the Department for a penalty equal to 25% of the  
17 amount of such draft.

18 ~~Every prior continuous compliance taxpayer shall be exempt~~  
19 ~~from all requirements under this Section concerning the~~  
20 ~~furnishing of such bond, as defined in this Section, as a~~  
21 ~~condition precedent to his being authorized to engage in the~~  
22 ~~business licensed under this Act. This exemption shall continue~~  
23 ~~for each such taxpayer until such time as he may be determined~~  
24 ~~by the Department to be delinquent in the filing of any~~  
25 ~~returns, or is determined by the Department (either through the~~  
26 ~~Department's issuance of a final assessment which has become~~

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

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



1           The Department shall discharge any surety and shall release  
2 and return any bond or security deposited, assigned, pledged,  
3 or otherwise provided to it by a taxpayer under this Section  
4 within 30 days after: ~~(1) such Taxpayer becomes a prior~~  
5 ~~continuous compliance taxpayer; or (2) such taxpayer has ceased~~  
6 to collect receipts on which he is required to remit tax to the  
7 Department, has filed a final tax return, and has paid to the  
8 Department an amount sufficient to discharge his remaining tax  
9 liability as determined by the Department under this Act. The  
10 Department 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 cannot  
13 make such final determination within 45 days after receiving  
14 the final tax return, within such period it shall so notify the  
15 taxpayer, stating its reasons therefor.

16           At the time of purchasing such stamps from the Department  
17 when purchase is required by this Act, or at the time when the  
18 tax which he has collected is remitted by a distributor to the  
19 Department without the purchase of stamps from the Department  
20 when that method of remitting the tax that has been collected  
21 is required or authorized by this Act, the distributor shall be  
22 allowed a discount during any year commencing July 1 and ending  
23 the following June 30 in accordance with the schedule set out  
24 hereinbelow, from the amount to be paid by him to the  
25 Department for such stamps, or to be paid by him to the  
26 Department on the basis of monthly remittances (as the case may

1 be), to cover the cost, to such distributor, of collecting the  
2 tax herein imposed by affixing such stamps to the original  
3 packages of cigarettes sold by such distributor or by placing  
4 tax imprints underneath the sealed transparent wrapper of  
5 original packages of cigarettes sold by such distributor (as  
6 the case may be): (1) Prior to December 1, 1985, a discount  
7 equal to 1-2/3% of the amount of the tax up to and including  
8 the first \$700,000 paid hereunder by such distributor to the  
9 Department during any such year; 1-1/3% of the next \$700,000 of  
10 tax or any part thereof, paid hereunder by such distributor to  
11 the Department during any such year; 1% of the next \$700,000 of  
12 tax, or any part thereof, paid hereunder by such distributor to  
13 the Department during any such year; and 2/3 of 1% of the  
14 amount of any additional tax paid hereunder by such distributor  
15 to the Department during any such year or (2) On and after  
16 December 1, 1985, a discount equal to 1.75% of the amount of  
17 the tax payable under this Act up to and including the first  
18 \$3,000,000 paid hereunder by such distributor to the Department  
19 during any such year and 1.5% of the amount of any additional  
20 tax paid hereunder by such distributor to the Department during  
21 any such year.

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

26 Cigarette manufacturers who are distributors under Section

1 7(a) of this Act, and who place their cigarettes in original  
2 packages which are contained inside a sealed transparent  
3 wrapper, shall be required to remit the tax which they are  
4 required to collect under this Act to the Department by  
5 remitting the amount thereof to the Department by the 5th day  
6 of each month, covering cigarettes shipped or otherwise  
7 delivered to points in Illinois to purchasers during the  
8 preceding calendar month, but a distributor need not remit to  
9 the Department the tax so collected by him from purchasers  
10 under this Act to the extent to which such distributor is  
11 required to remit the tax imposed by the Cigarette Tax Act to  
12 the Department with respect to the same cigarettes. All taxes  
13 upon cigarettes under this Act are a direct tax upon the retail  
14 consumer and shall conclusively be presumed to be precollected  
15 for the purpose of convenience and facility only. Cigarette  
16 manufacturers that are distributors licensed under Section  
17 7(a) of this Act and who place their cigarettes in original  
18 packages which are contained inside a sealed transparent  
19 wrapper, before delivering such cigarettes or causing such  
20 cigarettes to be delivered in this State to purchasers, shall  
21 evidence their obligation to collect and remit the tax due with  
22 respect to such cigarettes by imprinting language to be  
23 prescribed by the Department on each original package of such  
24 cigarettes underneath the sealed transparent outside wrapper  
25 of such original package, in such place thereon and in such  
26 manner as the Department may prescribe; provided (as stated

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

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

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

1 imprint tax meter stamps upon original packages of cigarettes.

2 The tax hereby imposed and not paid pursuant to this  
3 Section shall be paid to the Department directly by any person  
4 using such cigarettes within this State, pursuant to Section 12  
5 hereof.

6 A distributor shall not affix, or cause to be affixed, any  
7 stamp or imprint to a package of cigarettes, as provided for in  
8 this Section, if the tobacco product manufacturer, as defined  
9 in Section 10 of the Tobacco Product Manufacturers' Escrow Act,  
10 that made or sold the cigarettes has failed to become a  
11 participating manufacturer, as defined in subdivision (a)(1)  
12 of Section 15 of the Tobacco Product Manufacturers' Escrow Act,  
13 or has failed to create a qualified escrow fund for any  
14 cigarettes manufactured by the tobacco product manufacturer  
15 and sold in this State or otherwise failed to bring itself into  
16 compliance with subdivision (a)(2) of Section 15 of the Tobacco  
17 Product Manufacturers' Escrow Act.

18 (Source: P.A. 96-782, eff. 1-1-10; 96-1027, eff. 7-12-10.)

19 (35 ILCS 135/12) (from Ch. 120, par. 453.42)

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

22 (a) When cigarettes are acquired for use in this State by a  
23 person (including a distributor as well as any other person),  
24 who did not pay the tax herein imposed to a distributor, the  
25 person, within 30 days after acquiring the cigarettes, shall

1 file with the Department a return declaring the possession of  
2 the cigarettes and shall transmit with the return to the  
3 Department the tax imposed by this Act.

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

9 (c) The return referred to in paragraph (a) shall contain  
10 the name and address of the person possessing the cigarettes  
11 involved, the location of the cigarettes and the quantity,  
12 brand name, place, and date of the acquisition of the  
13 cigarettes.

14 (d) Nothing in this Section shall permit a secondary  
15 distributor to purchase unstamped original packages of  
16 cigarettes or to purchase original packages of cigarettes from  
17 a person other than a licensed distributor.

18 (e) The provisions of this Section are not subject to the  
19 Uniform Penalty and Interest Act.

20 (Source: P.A. 96-1027, eff. 7-12-10.)

21 Section 15. The Liquor Control Act of 1934 is amended by  
22 reenacting and changing Section 8-1 as follows:

23 (235 ILCS 5/8-1)

24 Sec. 8-1. A tax is imposed upon the privilege of engaging

1 in business as a manufacturer or as an importing distributor of  
2 alcoholic liquor other than beer at the rate of \$0.185 per  
3 gallon until September 1, 2009 and \$0.231 per gallon beginning  
4 September 1, 2009 for cider containing not less than 0.5%  
5 alcohol by volume nor more than 7% alcohol by volume, \$0.73 per  
6 gallon until September 1, 2009, ~~and~~ \$1.39 per gallon beginning  
7 September 1, 2009 and until July 1, 2011, and \$0.911 per gallon  
8 beginning July 1, 2011 for wine other than cider containing  
9 less than 7% alcohol by volume, and \$4.50 per gallon until  
10 September 1, 2009 and \$8.55 per gallon beginning September 1,  
11 2009 and until July 1, 2011, and \$5.619 per gallon beginning  
12 July 1, 2011 on alcohol and spirits manufactured and sold or  
13 used by such manufacturer, or as agent for any other person, or  
14 sold or used by such importing distributor, or as agent for any  
15 other person. A tax is imposed upon the privilege of engaging  
16 in business as a manufacturer of beer or as an importing  
17 distributor of beer at the rate of \$0.185 per gallon until  
18 September 1, 2009 and \$0.231 per gallon beginning September 1,  
19 2009 on all beer manufactured and sold or used by such  
20 manufacturer, or as agent for any other person, or sold or used  
21 by such importing distributor, or as agent for any other  
22 person. Any brewer manufacturing beer in this State shall be  
23 entitled to and given a credit or refund of 75% of the tax  
24 imposed on each gallon of beer up to 4.9 million gallons per  
25 year in any given calendar year for tax paid or payable on beer  
26 produced and sold in the State of Illinois.

1           For the purpose of this Section, "cider" means any  
2 alcoholic beverage obtained by the alcohol fermentation of the  
3 juice of apples or pears including, but not limited to,  
4 flavored, sparkling, or carbonated cider.

5           The credit or refund created by this Act shall apply to all  
6 beer taxes in the calendar years 1982 through 1986.

7           The increases made by this amendatory Act of the 91st  
8 General Assembly in the rates of taxes imposed under this  
9 Section shall apply beginning on July 1, 1999.

10          A tax at the rate of 1¢ per gallon on beer and 48¢ per  
11 gallon on alcohol and spirits is also imposed upon the  
12 privilege of engaging in business as a retailer or as a  
13 distributor who is not also an importing distributor with  
14 respect to all beer and all alcohol and spirits owned or  
15 possessed by such retailer or distributor when this amendatory  
16 Act of 1969 becomes effective, and with respect to which the  
17 additional tax imposed by this amendatory Act upon  
18 manufacturers and importing distributors does not apply.  
19 Retailers and distributors who are subject to the additional  
20 tax imposed by this paragraph of this Section shall be required  
21 to inventory such alcoholic liquor and to pay this additional  
22 tax in a manner prescribed by the Department.

23          The provisions of this Section shall be construed to apply  
24 to any importing distributor engaging in business in this  
25 State, whether licensed or not.

26          However, such tax is not imposed upon any such business as



1 to any alcoholic liquor shipped outside Illinois by an Illinois  
2 licensed manufacturer or importing distributor, nor as to any  
3 alcoholic liquor delivered in Illinois by an Illinois licensed  
4 manufacturer or importing distributor to a purchaser for  
5 immediate transportation by the purchaser to another state into  
6 which the purchaser has a legal right, under the laws of such  
7 state, to import such alcoholic liquor, nor as to any alcoholic  
8 liquor other than beer sold by one Illinois licensed  
9 manufacturer or importing distributor to another Illinois  
10 licensed manufacturer or importing distributor to the extent to  
11 which the sale of alcoholic liquor other than beer by one  
12 Illinois licensed manufacturer or importing distributor to  
13 another Illinois licensed manufacturer or importing  
14 distributor is authorized by the licensing provisions of this  
15 Act, nor to alcoholic liquor whether manufactured in or  
16 imported into this State when sold to a "non-beverage user"  
17 licensed by the State for use in the manufacture of any of the  
18 following when they are unfit for beverage purposes:

19 Patent and proprietary medicines and medicinal,  
20 antiseptic, culinary and toilet preparations;

21 Flavoring extracts and syrups and food products;

22 Scientific, industrial and chemical products, excepting  
23 denatured alcohol;

24 Or for scientific, chemical, experimental or mechanical  
25 purposes;

26 Nor is the tax imposed upon the privilege of engaging in

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

4 The tax herein imposed shall be in addition to all other  
5 occupation or privilege taxes imposed by the State of Illinois  
6 or political subdivision thereof.

7 If any alcoholic liquor manufactured in or imported into  
8 this State is sold to a licensed manufacturer or importing  
9 distributor by a licensed manufacturer or importing  
10 distributor to be used solely as an ingredient in the  
11 manufacture of any beverage for human consumption, the tax  
12 imposed upon such purchasing manufacturer or importing  
13 distributor shall be reduced by the amount of the taxes which  
14 have been paid by the selling manufacturer or importing  
15 distributor under this Act as to such alcoholic liquor so used  
16 to the Department of Revenue.

17 If any person received any alcoholic liquors from a  
18 manufacturer or importing distributor, with respect to which  
19 alcoholic liquors no tax is imposed under this Article, and  
20 such alcoholic liquor shall thereafter be disposed of in such  
21 manner or under such circumstances as may cause the same to  
22 become the base for the tax imposed by this Article, such  
23 person shall make the same reports and returns, pay the same  
24 taxes and be subject to all other provisions of this Article  
25 relating to manufacturers and importing distributors.

26 Nothing in this Article shall be construed to require the

1 payment to the Department of the taxes imposed by this Article  
2 more than once with respect to any quantity of alcoholic liquor  
3 sold or used within this State.

4 No tax is imposed by this Act on sales of alcoholic liquor  
5 by Illinois licensed foreign importers to Illinois licensed  
6 importing distributors.

7 All of the proceeds of the additional tax imposed by Public  
8 Act 96-34, as subsequently amended by Public Acts 96-37, 96-38,  
9 and 96-1000, and then reenacted and reduced by this amendatory  
10 Act of the 97th General Assembly, shall be deposited by the  
11 Department into the Capital Projects Fund. The remainder of the  
12 tax imposed by this Act shall be deposited by the Department  
13 into the General Revenue Fund.

14 The provisions of this Section 8-1 are severable under  
15 Section 1.31 of the Statute on Statutes.

16 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,  
17 eff. 7-13-09; 96-1000, eff. 7-2-10.)

18 Section 90. Finding; reenactment; base text; tax;  
19 validation.

20 (a) On January 26, 2011, the First District Appellate  
21 Court, in *Wirtz v. Quinn* (Nos. 1-09-3163 and 1-10-0344), found  
22 that Public Act 96-34 violates the single subject rule of  
23 Article IV, Section 8 of the Illinois Constitution, and is  
24 therefore void in its entirety. It also found that Public Acts  
25 96-35, 96-37, and 96-38 "are all contingent on the enactment of

1 Public Act 96-34", and therefore "cannot stand". As of the date  
2 this Act was prepared, enforcement of the decision in *Wirtz v.*  
3 *Quinn* had been stayed by the Illinois Supreme Court and the  
4 case was still subject to further appeal.

5 (b) Among other things, this Act reenacts the changes to  
6 Section 8-1 of the Liquor Control Act of 1934 made by Public  
7 Act 96-34, by the related trailer amendments of Public Acts  
8 96-37 and 96-38, and by the revisory bill Public Act 96-1000.  
9 This reenactment is intended to remove any question about the  
10 validity of those provisions and the actions taken in reliance  
11 on them, and to provide continuity in the implementation and  
12 administration of those provisions. Notwithstanding Section  
13 9999 of Public Act 96-34, this reenactment is not contingent  
14 upon House Bill 312 of the 96th General Assembly (now P.A.  
15 96-35) becoming law. This reenactment is not intended, and  
16 shall not be construed, to imply that all or any portion of  
17 P.A. 96-34, 96-37, or 96-38 is invalid.

18 (c) The text of the reenacted material, including the  
19 existing amendments, is shown in this Act as existing text;  
20 striking and underscoring have been used only to indicate new  
21 changes being made to the reenacted text by this Act

22 (d) All otherwise lawful actions taken before the effective  
23 date of this Act in reasonable reliance on or pursuant to the  
24 provisions reenacted by this Act (as those provisions were set  
25 forth in Public Act 96-34, 96-37, or 96-38 or had been  
26 otherwise amended at the relevant time) by any officer,

1 employee, agency, or unit of State or local government or by  
2 any other person or entity are hereby validated.

3 With respect to actions taken before the effective date of  
4 this Act in relation to matters arising under the provisions  
5 reenacted by this Act, a person is rebuttably presumed to have  
6 acted in reasonable reliance on or pursuant to those  
7 provisions, as they had been amended at the relevant time.

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