

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. The Cigarette Tax Act is amended by changing
5 Sections 1, 2, 4d, 7, 8, 9, 10, and 23 and by adding Sections
6 4f, 9f, and 11b as follows:

7 (35 ILCS 130/1) (from Ch. 120, par. 453.1)

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

9 "Brand Style" means a variety of cigarettes distinguished
10 by the tobacco used, tar and nicotine content, flavoring used,
11 size of the cigarette, filtration on the cigarette or
12 packaging.

13 "Cigarette", means any roll for smoking made wholly or in
14 part of tobacco irrespective of size or shape and whether or
15 not such tobacco is flavored, adulterated or mixed with any
16 other ingredient, and the wrapper or cover of which is made of
17 paper or any other substance or material except tobacco.

18 "Contraband cigarettes" means:

19 (a) cigarettes that do not bear a required tax stamp
20 under this Act;

21 (b) cigarettes for which any required federal taxes
22 have not been paid;

23 (c) cigarettes that bear a counterfeit tax stamp;

1 (d) cigarettes that are manufactured, fabricated,
2 assembled, processed, packaged, or labeled by any person
3 other than (i) the owner of the trademark rights in the
4 cigarette brand or (ii) a person that is directly or
5 indirectly authorized by such owner;

6 (e) cigarettes imported into the United States, or
7 otherwise distributed, in violation of the federal
8 Imported Cigarette Compliance Act of 2000 (Title IV of
9 Public Law 106-476);

10 (f) cigarettes that have false manufacturing labels;

11 (g) cigarettes identified in Section 3-10(a)(1) of
12 this Act; or

13 (h) cigarettes that are improperly tax stamped,
14 including cigarettes that bear a tax stamp of another state
15 or taxing jurisdiction.

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

22 "Prior Continuous Compliance Taxpayer" means any person
23 who is licensed under this Act and who, having been a licensee
24 for a continuous period of 5 years, is determined by the
25 Department not to have been either delinquent or deficient in
26 the payment of tax liability during that period or otherwise in

1 violation of this Act. Also, any taxpayer who has, as verified
2 by the Department, continuously complied with the condition of
3 his bond or other security under provisions of this Act for a
4 period of 5 consecutive years shall be considered to be a
5 "Prior continuous compliance taxpayer". In calculating the
6 consecutive period of time described herein for qualification
7 as a "prior continuous compliance taxpayer", a consecutive
8 period of time of qualifying compliance immediately prior to
9 the effective date of this amendatory Act of 1987 shall be
10 credited to any licensee who became licensed on or before the
11 effective date of this amendatory Act of 1987.

12 "Department" means the Department of Revenue.

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

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

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

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

1 for sale or other disposition in the course of such business.

2 (2) Any person who makes, manufactures or fabricates
3 cigarettes in this State for sale in this State, except a
4 person who makes, manufactures or fabricates cigarettes as a
5 part of a correctional industries program for sale to residents
6 incarcerated in penal institutions or resident patients of a
7 State-operated mental health facility.

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

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

19 "Manufacturer representative" means a director, officer,
20 or employee of a manufacturer who has obtained authority from
21 the Department under Section 4f to maintain representatives in
22 Illinois that provide or sell original packages of cigarettes
23 made, manufactured, or fabricated by the manufacturer to
24 retailers in compliance with Section 4f of this Act to promote
25 cigarettes made, manufactured, or fabricated by the
26 manufacturer.

1 "Business" means any trade, occupation, activity or
2 enterprise engaged in for the purpose of selling cigarettes in
3 this State.

4 "Retailer" means any person who engages in the making of
5 transfers of the ownership of, or title to, cigarettes to a
6 purchaser for use or consumption and not for resale in any
7 form, for a valuable consideration. "Retailer" does not include
8 a person:

9 (1) who transfers to residents incarcerated in penal
10 institutions or resident patients of a State-operated
11 mental health facility ownership of cigarettes made,
12 manufactured, or fabricated as part of a correctional
13 industries program; or

14 (2) who transfers cigarettes to a not-for-profit
15 research institution that conducts tests concerning the
16 health effects of tobacco products and who does not offer
17 the cigarettes for resale.

18 "Retailer" shall be construed to include any person who
19 engages in the making of transfers of the ownership of, or
20 title to, cigarettes to a purchaser, for use or consumption by
21 any other person to whom such purchaser may transfer the
22 cigarettes without a valuable consideration, except a person
23 who transfers to residents incarcerated in penal institutions
24 or resident patients of a State-operated mental health facility
25 ownership of cigarettes made, manufactured or fabricated as
26 part of a correctional industries program.

1 "Secondary distributor" means any person engaged in the
2 business of selling cigarettes who purchases stamped original
3 packages of cigarettes from a licensed distributor under this
4 Act or the Cigarette Use Tax Act, sells 75% or more of those
5 cigarettes to retailers for resale, and maintains an
6 established business where a substantial stock of cigarettes is
7 available to retailers for resale.

8 "Stamp" or "stamps" mean the indicia required to be affixed
9 on a pack of cigarettes that evidence payment of the tax on
10 cigarettes under Section 2 of this Act.

11 "Related party" means any person that is associated with
12 any other person because he or she:

13 (a) is an officer or director of a business; or

14 (b) is legally recognized as a partner in business.

15 (Source: P.A. 95-462, eff. 8-27-07; 95-1053, eff. 1-1-10;
16 96-782, eff. 1-1-10; 96-1027, eff. 7-12-10.)

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. The payment of such taxes shall be evidenced by a stamp
11 affixed to each original package of cigarettes, or an
12 authorized substitute for such stamp imprinted on each original
13 package of such cigarettes underneath the sealed transparent
14 outside wrapper of such original package, as hereinafter
15 provided. However, such taxes are not imposed upon any activity
16 in such business in interstate commerce or otherwise, which
17 activity may not under the Constitution and statutes of the
18 United States be made the subject of taxation by this State.

19 Beginning on the effective date of this amendatory Act of
20 the 92nd General Assembly and through June 30, 2006, all of the
21 moneys received by the Department of Revenue pursuant to this
22 Act and the Cigarette Use Tax Act, other than the moneys that
23 are dedicated to the Common School Fund, shall be distributed
24 each month as follows: first, there shall be paid into the
25 General Revenue Fund an amount which, when added to the amount
26 paid into the Common School Fund for that month, equals

1 \$33,300,000, except that in the month of August of 2004, this
2 amount shall equal \$83,300,000; then, from the moneys
3 remaining, if any amounts required to be paid into the General
4 Revenue Fund in previous months remain unpaid, those amounts
5 shall be paid into the General Revenue Fund; then, beginning on
6 April 1, 2003, from the moneys remaining, \$5,000,000 per month
7 shall be paid into the School Infrastructure Fund; then, if any
8 amounts required to be paid into the School Infrastructure Fund
9 in previous months remain unpaid, those amounts shall be paid
10 into the School Infrastructure Fund; then the moneys remaining,
11 if any, shall be paid into the Long-Term Care Provider Fund. To
12 the extent that more than \$25,000,000 has been paid into the
13 General Revenue Fund and Common School Fund per month for the
14 period of July 1, 1993 through the effective date of this
15 amendatory Act of 1994 from combined receipts of the Cigarette
16 Tax Act and the Cigarette Use Tax Act, notwithstanding the
17 distribution provided in this Section, the Department of
18 Revenue is hereby directed to adjust the distribution provided
19 in this Section to increase the next monthly payments to the
20 Long Term Care Provider Fund by the amount paid to the General
21 Revenue Fund and Common School Fund in excess of \$25,000,000
22 per month and to decrease the next monthly payments to the
23 General Revenue Fund and Common School Fund by that same excess
24 amount.

25 Beginning on July 1, 2006, all of the moneys received by
26 the Department of Revenue pursuant to this Act and the

1 Cigarette Use Tax Act, other than the moneys that are dedicated
2 to the Common School Fund, shall be distributed each month as
3 follows: first, there shall be paid into the General Revenue
4 Fund an amount that, when added to the amount paid into the
5 Common School Fund for that month, equals \$29,200,000; then,
6 from the moneys remaining, if any amounts required to be paid
7 into the General Revenue Fund in previous months remain unpaid,
8 those amounts shall be paid into the General Revenue Fund; then
9 from the moneys remaining, \$5,000,000 per month shall be paid
10 into the School Infrastructure Fund; then, if any amounts
11 required to be paid into the School Infrastructure Fund in
12 previous months remain unpaid, those amounts shall be paid into
13 the School Infrastructure Fund; then the moneys remaining, if
14 any, shall be paid into the Long-Term Care Provider Fund.

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

24 The impact of the tax levied by this Act is imposed upon
25 the retailer and shall be prepaid or pre-collected by the
26 distributor for the purpose of convenience and facility only,

1 and the amount of the tax shall be added to the price of the
2 cigarettes sold by such distributor. Collection of the tax
3 shall be evidenced by a stamp or stamps affixed to each
4 original package of cigarettes, as hereinafter provided.

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

1 1997 shall not be required to pay the additional tax imposed by
2 this amendatory Act of 1997 on such stamped cigarettes.

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

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

23 The amount of the Cigarette Tax imposed by this Act shall
24 be separately stated, apart from the price of the goods, by
25 distributors, manufacturer representatives, secondary
26 distributors, and retailers, in all bills and sales invoices.

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

26 Two or more distributors that use a common means of

1 affixing revenue tax stamps or that are owned or controlled by
2 the same interests shall be treated as a single distributor for
3 the purpose of computing the discount.

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

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

9 (35 ILCS 130/4d)

10 Sec. 4d. Sales of cigarettes to and by retailers. In-state
11 makers, manufacturers, and fabricators licensed as
12 distributors under Section 4 of this Act and out-of-state
13 makers, manufacturers, and fabricators holding permits under
14 Section 4b of this Act may not sell original packages of
15 cigarettes to retailers. A retailer may sell only original
16 packages of cigarettes obtained from manufacturer
17 representatives, licensed secondary distributors, or licensed
18 distributors other than in-state makers, manufacturers, or
19 fabricators licensed as distributors under Section 4 of this
20 Act and out-of-state makers, manufacturers, or fabricators
21 holding permits under Section 4b of this Act.

22 (Source: P.A. 95-1053, eff. 1-1-10; 96-782, eff. 1-1-10;
23 96-1027, eff. 7-12-10.)

24 (35 ILCS 130/4f new)

1 Sec. 4f. Manufacturer representatives.

2 (a) No manufacturer may market cigarettes produced by the
3 manufacturer directly to retailers in this State without first
4 having obtained authorization from the Department. Application
5 for authority to maintain representatives in this State to
6 market in this State cigarettes produced by the manufacturer
7 shall be made to the Department on a form furnished and
8 prescribed by the Department. Each applicant under this Section
9 shall furnish the following information to the Department on a
10 form signed and verified by the applicant under penalty of
11 perjury:

12 (1) the name and address of the applicant;

13 (2) the address of every location from which the
14 applicant proposes to engage in business in this State;

15 (3) the number of manufacturer representatives the
16 applicant requests to maintain in this State; and

17 (4) any other additional information as the Department
18 may reasonably require.

19 The following manufacturers are ineligible to receive
20 authorization to maintain manufacturer representatives in this
21 State:

22 (1) a manufacturer who owes, at the time of
23 application, any delinquent cigarette taxes that have been
24 determined by law to be due and unpaid, unless the
25 applicant has entered into an agreement approved by the
26 Department to pay the amount due;

1 (2) a manufacturer who has had a license revoked within
2 the past 2 years for misconduct relating to stolen or
3 contraband cigarettes or has been convicted of a state or
4 federal crime, punishable by imprisonment of one year or
5 more, relating to stolen or contraband cigarettes;

6 (3) a manufacturer who has been found, after notice and
7 a hearing, to have imported or caused to be imported into
8 the United States for sale or distribution any cigarette in
9 violation of 19 U.S.C. 1681a;

10 (4) a manufacturer who has been found, after notice and
11 a hearing, to have imported or caused to be imported into
12 the United States for sale or distribution or manufactured
13 for sale or distribution in the United States any cigarette
14 that does not fully comply with the Federal Cigarette
15 Labeling and Advertising Act (15 U.S.C. 1331, et seq.);

16 (5) a manufacturer who has been found, after notice and
17 a hearing, to have made a material false statement in an
18 application or has failed to produce records required to be
19 maintained by this Act;

20 (6) a manufacturer who has been found, after notice and
21 hearing, to have violated any Section of this Act; or

22 (7) a manufacturer licensed as a distributor under
23 Section 4 of this Act or holding a permit under Section 4b
24 of this Act.

25 The Department, upon receipt of an application from a
26 manufacturer who is eligible to maintain manufacturer

1 representatives in this State, shall notify the applicant in
2 writing, not more than 60 days after an application has been
3 received, that the applicant may or may not maintain the
4 requested number of manufacturer representatives in this
5 State. A copy of the notice authorizing a manufacturer to
6 maintain manufacturer representatives in this State shall be
7 available for inspection by the Department at each place of
8 business identified in the application and in the motor vehicle
9 operated by marketing representatives in the course of
10 performing his or her duties in this State on behalf of the
11 manufacturer.

12 A manufacturer representative shall notify the Department
13 of any change in the information contained on the application
14 form and shall do so within 30 days after any such change.

15 (b) Only directors, officers, and employees of the
16 manufacturer may act as manufacturer representatives in this
17 State. The manufacturer shall provide to the Department the
18 names and addresses of the manufacturer representatives
19 operating in this State and the make, model, and license plate
20 number of each motor vehicle operated by a manufacturer
21 representative in the course of performing his or her duties in
22 this State on behalf of the manufacturer. The following
23 individuals may not act as manufacturer representatives:

24 (1) an individual who owes any delinquent cigarette
25 taxes that have been determined by law to be due and
26 unpaid, unless the individual has entered into an agreement

1 approved by the Department to pay the amount due;

2 (2) an individual who has had a license revoked within
3 the past 2 years for misconduct relating to stolen or
4 contraband cigarettes or has been convicted of a state or
5 federal crime, punishable by imprisonment of one year or
6 more, relating to stolen or contraband cigarettes;

7 (3) an individual who has been found, after notice and
8 a hearing, to have made a material false statement in an
9 application or has failed to produce records required to be
10 maintained by this Act; or

11 (4) an individual who has been found, after notice and
12 hearing, to have violated any Section of this Act.

13 (c) Manufacturer representatives may sell to retailers in
14 this State only original packages of cigarettes made,
15 manufactured, or fabricated by the manufacturer and purchased
16 or obtained from a distributor licensed under this Act, or the
17 Cigarette Tax Use Act, and on which tax stamps have been
18 affixed. Manufacturer representatives may sell up to 600
19 stamped original packages of cigarettes in a calendar year, for
20 the purpose of promoting the manufacturer's brands of
21 cigarettes. A manufacturer representative may not possess more
22 than 500 stamped original packages of cigarettes made,
23 manufactured, or fabricated by the manufacturer and purchased
24 or obtained from a distributor licensed under this Act or the
25 Cigarette Use Tax Act. Any original packages of cigarettes in
26 the possession of a manufacturer representative that (i) are

1 not made, manufactured, or fabricated by the manufacturer and
2 purchased or obtained from a distributor licensed under this
3 Act or the Cigarette Use Tax Act, other than cigarettes for
4 personal use and consumption, (ii) exceed the maximum quantity
5 of 500 original packages of cigarettes, excluding packages of
6 cigarettes for personal use and consumption; (iii) violate
7 Section 3-10 of this Act; or (iv) do not have the proper tax
8 stamps affixed, are contraband and subject to seizure and
9 forfeiture.

10 Manufacturer representatives may sell stamped original
11 packages of cigarettes to retailers on behalf of licensed
12 distributors. The manufacturer representative shall provide
13 the distributor with a signed receipt for the cigarettes
14 obtained from the distributor. The distributor shall invoice
15 the retailer, and the retailer shall pay the distributor for
16 all cigarettes provided to retailers by manufacturer
17 representatives on behalf of a distributor.

18 Manufacturer representatives may sell stamped original
19 packages of cigarettes to retailers that are purchased from
20 licensed distributors. Distributors shall provide manufacturer
21 representatives with invoices for stamped original packages of
22 cigarettes sold to manufacturer representatives. Manufacturer
23 representatives shall invoice retailers, and the retailers
24 shall pay the manufacturer representatives for all original
25 packages of cigarettes sold to retailers.

26 (d) Any person aggrieved by any decision of the Department

1 under this Section may, within 20 days after notice of the
2 decision, protest and request a hearing. Upon receiving a
3 request for a hearing, the Department shall give notice to the
4 person requesting the hearing of the time and place fixed for
5 the hearing and shall hold a hearing in conformity with the
6 provisions of this Act and then issue its final administrative
7 decision in the matter to that person. In the absence of a
8 protest and request for a hearing within 20 days, the
9 Department's decision shall become final without any further
10 determination being made or notice given.

11 (35 ILCS 130/7) (from Ch. 120, par. 453.7)

12 Sec. 7. The Department or any officer or employee of the
13 Department designated, in writing, by the Director thereof,
14 shall at its or his or her own instance, or on the written
15 request of any distributor, secondary distributor,
16 manufacturer with authority to maintain manufacturer
17 representatives, or other interested party to the proceeding,
18 issue subpoenas requiring the attendance of and the giving of
19 testimony by witnesses, and subpoenas duces tecum requiring the
20 production of books, papers, records or memoranda. All
21 subpoenas and subpoenas duces tecum issued under the terms of
22 this Act may be served by any person of full age. The fees of
23 witnesses for attendance and travel shall be the same as the
24 fees of witnesses before the circuit court of this State; such
25 fees to be paid when the witness is excused from further

1 attendance. When the witness is subpoenaed at the instance of
2 the Department or any officer or employee thereof, such fees
3 shall be paid in the same manner as other expenses of the
4 Department, and when the witness is subpoenaed at the instance
5 of any other party to any such proceeding, the cost of service
6 of the subpoena or subpoena duces tecum and the fee of the
7 witness shall be borne by the party at whose instance the
8 witness is summoned. In such case the Department, in its
9 discretion, may require a deposit to cover the cost of such
10 service and witness fees. A subpoena or subpoena duces tecum so
11 issued shall be served in the same manner as a subpoena or
12 subpoena duces tecum issued out of a court.

13 Any circuit court of this State, upon the application of
14 the Department or any officer or employee thereof, or upon the
15 application of any other party to the proceeding, may, in its
16 discretion, compel the attendance of witnesses, the production
17 of books, papers, records or memoranda and the giving of
18 testimony before the Department or any officer or employee
19 thereof conducting an investigation or holding a hearing
20 authorized by this Act, by an attachment for contempt, or
21 otherwise, in the same manner as production of evidence may be
22 compelled before the court.

23 The Department or any officer or employee thereof, or any
24 other party in an investigation or hearing before the
25 Department, may cause the depositions of witnesses within the
26 State to be taken in the manner prescribed by law for like

1 depositions, or depositions for discovery in civil actions in
2 courts of this State, and to that end compel the attendance of
3 witnesses and the production of books, papers, records or
4 memoranda, in the same manner hereinbefore provided.

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

6 (35 ILCS 130/8) (from Ch. 120, par. 453.8)

7 Sec. 8. The Department may make, promulgate and enforce
8 such reasonable rules and regulations relating to the
9 administration and enforcement of this Act as may be deemed
10 expedient.

11 Whenever notice is required by this Act, such notice may be
12 given by United States certified or registered mail, addressed
13 to the person concerned at his last known address, and proof of
14 such mailing shall be sufficient for the purposes of this Act.
15 Notice of any hearing provided for by this Act shall be so
16 given not less than 7 days prior to the day fixed for the
17 hearing.

18 Hearings provided for in this Act shall be held:

19 (1) In Cook County, if the taxpayer's or licensee's
20 principal place of business is in that county;

21 (2) At the Department's office nearest the taxpayer's
22 or licensee's principal place of business, if the
23 taxpayer's or licensee's principal place of business is in
24 Illinois but outside Cook County;

25 (3) In Sangamon County, if the taxpayer's or licensee's

1 principal place of business is outside Illinois.

2 The Circuit Court of the County wherein the hearing is held
3 has power to review all final administrative decisions of the
4 Department in administering this Act. The provisions of the
5 Administrative Review Law, and all amendments and
6 modifications thereof, and the rules adopted pursuant thereto,
7 shall apply to and govern all proceedings for the judicial
8 review of final administrative decisions of the Department
9 under this Act. The term "administrative decision" is defined
10 as in Section 3-101 of the Code of Civil Procedure.

11 Service upon the Director of Revenue or Assistant Director
12 of Revenue of summons issued in any action to review a final
13 administrative decision shall be service upon the Department.
14 The Department shall certify the record of its proceedings if
15 the distributor, ~~or~~ secondary distributor, or manufacturer
16 with authority to maintain manufacturer representatives pays
17 to it the sum of 75¢ per page of testimony taken before the
18 Department and 25¢ per page of all other matters contained in
19 such record, except that these charges may be waived where the
20 Department is satisfied that the aggrieved party is a poor
21 person who cannot afford to pay such charges. Before the
22 delivery of such record to the person applying for it, payment
23 of these charges must be made, and if the record is not paid
24 for within 30 days after notice that such record is available,
25 the complaint may be dismissed by the court upon motion of the
26 Department.

1 No stay order shall be entered by the Circuit Court unless
2 the distributor, ~~or~~ secondary distributor, or manufacturer
3 with authority to maintain manufacturer representatives files
4 with the court a bond in an amount fixed and approved by the
5 court, to indemnify the State against all loss and injury which
6 may be sustained by it on account of the review proceedings and
7 to secure all costs which may be occasioned by such
8 proceedings.

9 Whenever any proceeding provided by this Act is begun
10 before the Department, either by the Department or by a person
11 subject to this Act, and such person thereafter dies or becomes
12 a person under legal disability before such proceeding is
13 concluded, the legal representative of the deceased person or
14 of the person under legal disability shall notify the
15 Department of such death or legal disability. Such legal
16 representative, as such, shall then be substituted by the
17 Department for such person. If the legal representative fails
18 to notify the Department of his or her appointment as such
19 legal representative, the Department may, upon its own motion,
20 substitute such legal representative in the proceeding pending
21 before the Department for the person who died or became a
22 person under legal disability.

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

24 (35 ILCS 130/9) (from Ch. 120, par. 453.9)

25 Sec. 9. Returns; remittance. Every distributor who is

1 required to procure a license under this Act, but who is not a
2 manufacturer of cigarettes in original packages which are
3 contained in a sealed transparent wrapper, shall, on or before
4 the 15th day of each calendar month, file a return with the
5 Department, showing the quantity of cigarettes manufactured
6 during the preceding calendar month, the quantity of cigarettes
7 brought into this State or caused to be brought into this State
8 from outside this State during the preceding calendar month
9 without authorized evidence on the original packages of such
10 cigarettes underneath the sealed transparent wrapper thereof
11 that the tax liability imposed by this Act has been assumed by
12 the out-of-State seller of such cigarettes, the quantity of
13 cigarettes purchased tax-paid during the preceding calendar
14 month either within or outside this State, the quantity of
15 cigarettes sold by manufacturer representatives on behalf of
16 the distributor, the quantity of cigarettes sold to
17 manufacturer representatives, and the quantity of cigarettes
18 sold or otherwise disposed of during the preceding calendar
19 month. Such return shall be filed upon forms furnished and
20 prescribed by the Department and shall contain such other
21 information as the Department may reasonably require. The
22 Department may promulgate rules to require that the
23 distributor's return be accompanied by appropriate
24 computer-generated magnetic media supporting schedule data in
25 the format required by the Department, unless, as provided by
26 rule, the Department grants an exception upon petition of a

1 distributor.

2 Illinois manufacturers of cigarettes in original packages
3 which are contained inside a sealed transparent wrapper shall
4 file a return by the 5th day of each month covering the
5 preceding calendar month. Each such return shall be accompanied
6 by the appropriate remittance for tax as provided in ~~the last~~
7 ~~paragraph of~~ Section 3 of this Act. Each such return shall show
8 the quantity of such cigarettes manufactured during the period
9 covered by the return, the quantity of cigarettes sold or
10 otherwise disposed of during the period covered by the return
11 and such other information as the Department may lawfully
12 require. Such returns shall be filed on forms prescribed and
13 furnished by the Department. Each such return shall be
14 accompanied by a copy of each invoice rendered by such
15 manufacturer to any purchaser to whom such manufacturer
16 delivered cigarettes (or caused cigarettes to be delivered)
17 during the period covered by the return. The Department may
18 promulgate rules to require that the manufacturer's return be
19 accompanied by appropriate computer-generated magnetic media
20 supporting schedule data in the format required by the
21 Department, unless, as provided by rule, the Department grants
22 an exception upon petition of a manufacturer.

23 (Source: P.A. 92-322, eff. 1-1-02.)

24 (35 ILCS 130/9f new)

25 Sec. 9f. Manufacturer representatives; reports. Every

1 manufacturer with authority to maintain manufacturer
2 representatives as defined by Section 4f of this Act shall, on
3 or before the 15th day of each calendar month, file a report
4 with the Department, showing the quantity of cigarettes
5 purchased from licensed distributors during the preceding
6 calendar month, either within or outside this State, and the
7 quantity of cigarettes sold to retailers or otherwise disposed
8 of during the preceding calendar month. Such reports shall be
9 filed in the form prescribed by the Department and shall
10 contain such other information as the Department may reasonably
11 require. The report shall be filed electronically and be
12 accompanied by appropriate computer generated magnetic media
13 supporting schedule data in the format required by the
14 Department, unless, as provided by rule, the Department grants
15 an exception upon petition of a manufacturer with authority to
16 maintain manufacturer representatives in this State.

17 A certification by the Director of the Department that a
18 report has not been filed, or that information has not been
19 supplied pursuant to the provisions of this Act, shall be prima
20 facie evidence thereof.

21 (35 ILCS 130/10) (from Ch. 120, par. 453.10)

22 Sec. 10. The Department, or any officer or employee
23 designated in writing by the Director thereof, for the purpose
24 of administering and enforcing the provisions of this Act, may
25 hold investigations and hearings concerning any matters

1 covered by this Act, and may examine books, papers, records or
2 memoranda bearing upon the sale or other disposition of
3 cigarettes by a distributor, ~~or~~ secondary distributor,
4 manufacturer with authority to maintain manufacturer
5 representatives under Section 4f of this Act, or manufacturer
6 representative, and may issue subpoenas requiring the
7 attendance of a distributor, ~~or~~ secondary distributor,
8 manufacturer with authority to maintain manufacturer
9 representatives under Section 4f of this Act, or manufacturer
10 representative, or any officer or employee of a distributor, ~~or~~
11 secondary distributor, manufacturer with authority to maintain
12 manufacturer representatives under Section 4f of this Act, or
13 any person having knowledge of the facts, and may take
14 testimony and require proof, and may issue subpoenas duces
15 tecum to compel the production of relevant books, papers,
16 records and memoranda, for the information of the Department.

17 In the conduct of any investigation or hearing provided for
18 by this Act, neither the Department, nor any officer or
19 employee thereof, shall be bound by the technical rules of
20 evidence, and no informality in the proceedings nor in the
21 manner of taking testimony shall invalidate any rule, order,
22 decision or regulation made, approved or confirmed by the
23 Department.

24 The Director of Revenue, or any duly authorized officer or
25 employee of the Department, shall have the power to administer
26 oaths to such persons required by this Act to give testimony

1 before the said Department.

2 The books, papers, records and memoranda of the Department,
3 or parts thereof, may be proved in any hearing, investigation
4 or legal proceeding by a reproduced copy thereof under the
5 certificate of the Director of Revenue. Such reproduced copy
6 shall, without further proof, be admitted into evidence before
7 the Department or in any legal proceeding.

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

9 (35 ILCS 130/11b new)

10 Sec. 11b. Manufacturer representatives; records. Every
11 manufacturer with authority to maintain manufacturer
12 representatives under Section 4f of this Act shall keep within
13 Illinois, at his business address identified under Section 4f
14 of this Act, complete and accurate records of cigarettes
15 purchased, sold, or otherwise disposed of, and shall preserve
16 and keep within Illinois at his business address all invoices,
17 sales records, copies of bills of sale, inventory at the close
18 of each period for which a report is required of all cigarettes
19 on hand, and other pertinent papers and documents relating to
20 the purchase, sale, or disposition of cigarettes. All books and
21 records and other papers and documents that are required by
22 this Act to be kept shall be kept in the English language, and
23 shall, at all times during the usual business hours of the day,
24 be subject to inspection by the Department or its duly
25 authorized agents and employees. The Department may adopt rules

1 that establish requirements, including record forms and
2 formats, for records required to be kept and maintained by
3 manufacturers with authority to maintain manufacturer
4 representatives under Section 4f of this Act and their
5 manufacturer representatives. For purposes of this Section,
6 "records" means all data maintained by the manufacturers with
7 authority to maintain manufacturer representatives under
8 Section 4f of this Act and their manufacturer representatives,
9 including data on paper, microfilm, microfiche or any type of
10 machine sensible data compilation. Those books, records,
11 papers, and documents shall be preserved for a period of at
12 least 3 years after the date of the documents, or the date of
13 the entries appearing in the records, unless the Department, in
14 writing, authorizes their destruction or disposal at an earlier
15 date. At all times during the usual business hours of the day,
16 any duly authorized agent or employee of the Department may
17 enter any place of business of the manufacturers with authority
18 to maintain manufacturer representatives under Section 4f of
19 this Act and their manufacturer representatives, or inspect any
20 motor vehicle used by a manufacturer representative in the
21 course of business, without a search warrant and may inspect
22 the premises, motor vehicle, and any packages of cigarettes
23 therein contained to determine whether any of the provisions of
24 this Act are being violated. If such agent or employee is
25 denied free access or is hindered or interfered with in making
26 such examination as herein provided, the ability to maintain

1 marketing representatives in Illinois may be withdrawn by the
2 Department.

3 (35 ILCS 130/23) (from Ch. 120, par. 453.23)

4 Sec. 23. Every distributor, secondary distributor,
5 manufacturer with authority to maintain manufacturer
6 representatives under Section 4f of this Act and their
7 manufacturer representatives, or other person who shall
8 knowingly and wilfully sell or offer for sale any original
9 package, as defined in this Act, having affixed thereto any
10 fraudulent, spurious, imitation or counterfeit stamp, or stamp
11 which has been previously affixed, or affixes a stamp which has
12 previously been affixed to an original package, or who shall
13 knowingly and wilfully sell or offer for sale any original
14 package, as defined in this Act, having imprinted thereon
15 underneath the sealed transparent wrapper thereof any
16 fraudulent, spurious, imitation or counterfeit tax imprint,
17 shall be deemed guilty of a Class 2 felony.

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

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.